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Thursday 2 March 2017

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Jeudi 2 mars 2017

Standing Committee on Justice Policy

Aggregate Resources and
Mining Modernization Act, 2017

Comité permanent de la justice

Loi de 2017 sur la modernisation
des secteurs des ressources
en agrégats et des mines



Chair: Shafiq Qaadri
Clerk: Christopher Tyrell

Président : Shafiq Qaadri
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
JUSTICE POLICYCOMITÉ PERMANENT
DE LA JUSTICE

Thursday 2 March 2017

Jeudi 2 mars 2017

*The committee met at 0901 in committee room 1.*AGGREGATE RESOURCES AND
MINING MODERNIZATION ACT, 2017
LOI DE 2017 SUR LA MODERNISATION
DES SECTEURS DES RESSOURCES
EN AGRÉGATS ET DES MINES

Consideration of the following bill:

Bill 39, An Act to amend the Aggregate Resources Act and the Mining Act / Projet de loi 39, Loi modifiant la Loi sur les ressources en agrégats et la Loi sur les mines.

Le Président (M. Shafiq Qaadri): Chers collègues, j'appelle à l'ordre cette séance du Comité permanent de la justice. Bienvenue à tous.

Colleagues, as you know, we're here to consider Bill 39, An Act to amend the Aggregate Resources Act and the Mining Act, at the Standing Committee on Justice Policy. Welcome.

BIOINDUSTRIAL INNOVATION CANADA
ONTARIO FEDERATION
OF AGRICULTURE

The Chair (Mr. Shafiq Qaadri): I'll invite our first presenters to please come forward: Keith Currie, president, and Peter Jeffery, senior policy analyst, of Bio-industrial Innovation Canada and the Ontario Federation of Agriculture. Gentlemen, you will have 10 minutes in which to make your opening address, to be followed by three-minute rotations of questions and answers by each party. Of course, the timing will, as always, be enforced with military precision. You may officially begin now.

Mr. Keith Currie: Thank you for the opportunity to present to you this morning. I know that everyone has our submission, so I'm not going to go through it in detail.

The Ontario Federation of Agriculture represents 36,000 farm families across the province. We are where your aggregates are located. We certainly understand the need and appreciate the need for access to aggregates. It's important to our industry, to our businesses out there, and we don't want to get in the way of not having access ourselves to the aggregates. But we need to make sure that we understand that our farmland acreage is shrinking: 350 acres a day is being lost to farmland, and

aggregates certainly are a part of that. We're looking for a more concentrated, conciliated asset mapping so that you mine aggregates where they are the healthiest and the most abundant. Close to market certainly would be beneficial not only to the industry and to the market it's serving, but also to lessen the impact on the infrastructure that's involved.

One of the other aspects that we are pushing hard for is making sure that the rehabilitation process is clear, defined and consistent. We see sites all across our province that are not expired licences, yet they're left out there, still not in use, and it's taking up valuable land.

If you are located in a significant agricultural area, we would like to see the end use through rehabilitation go back to agriculture whenever it is possible to do that. Agriculture is the largest industry here in this province, and we need to maintain the strength of that industry because it is the base to our economy in the province as well. Making sure that we have that aggregate rehabilitation lining up with going back into agriculture, wherever possible, is certainly a priority for us.

We do support the modernization and the streamlining of this act. As I mentioned, we feel aggregates are important to us as well. But let's not dot the province with small pits all over the place that would really hamper our industry and take farmland away from active food production.

I'm not going to go into a lot more detail. I would sooner entertain questions from the committee.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Currie.

To Mr. Miller: three minutes.

Mr. Norm Miller: One of the points you brought up caught my attention. You said that 350 acres a day are being lost in agriculture. Is that for the province of Ontario?

Mr. Keith Currie: That's across the province, yes.

Mr. Norm Miller: Can you expand on that a little bit? How much of it is being lost because pits are being—

Mr. Keith Currie: We don't have the specific number to pits, but the primary source of that loss is development. Aggregates are also development, in a way, because we're still losing the land.

If we can lessen the impact on that land by concentrating the removal of the resource where it makes sense, where the really big sources of aggregates are, that would certainly be something we could support.

Mr. Norm Miller: I would assume that a number of your members have farms, but probably some of them also have aggregate operations as part of their farms. Is that a fair statement?

Mr. Keith Currie: Oh, I think there are places across Ontario where that is the case, yes.

Mr. Norm Miller: Okay. And you would like to see a little more concentration—bigger pit operations?

Mr. Keith Currie: The aggregate industry knows where the good sources are. If you exhaust those sources where there are lots of good, high-quality aggregates, that makes more sense than dotting the province with little pits all over the place and taking away more accessibility to farmland.

Part of what happens with pits across the province is that it also interferes with the agricultural system. The land that's taken out of farmland production also affects our supporting businesses because less farmland production means less business for our support services, and then they move away as well.

Mr. Norm Miller: Another possibility, I would say—the area I represent is Parry Sound–Muskoka. In the last 20 years, there seems to be much more of a trend toward quarrying granite and using that as an aggregate. There's not too much farming on the granite in Parry Sound–Muskoka. There is some farming, but obviously you're not going to be farming where you're mining granite, so that might be a solution.

Mr. Keith Currie: Your geographic location is going to determine that, certainly, but also, I'm not an expert on the quality of aggregate products and what products are needed for what their uses are. You'd have to leave that to the aggregate industry to determine that.

Mr. Norm Miller: And on your point about rehabilitation, I assume in most cases where you're making a pit, you end up with a pond afterward. How do you make it back to agriculture? What things do you do to make sure that there's more farmland that's left?

Mr. Keith Currie: Well, obviously, rock quarries are going to be hard to rehabilitate, but certainly with the sand and gravel quarries that don't have the depth that a rock quarry potentially has, there are opportunities through staging a rehabilitation as the resource is exhausted to make sure that the sloping is adequate so that you don't have erosion problems, so that the micro-climates aren't affected for the production of agricultural products going—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller. Maintenant je passe la parole à M. Bisson. Trois minutes.

Mr. Gilles Bisson: A couple of questions: On the last page of your presentation, you make the recommendation that aggregate extraction be prohibited on prime agricultural land. I'm of the view that whenever you put this stuff into law, there's always somebody who's going to want to sell a piece of their land because of economic reasons. Are you worried about that at all?

For you to take the position that there be none, if that would be an amendment that we put in the bill and were

to be passed, that means to say that if you have a farm and you want to sell off a part of it in order to accommodate some deal that you made with somebody for a quarry, you wouldn't be able to do it.

Mr. Keith Currie: I guess you'd have to make the determination on the value put on agriculture and food production. Prime land is being lost, as I mentioned, at 350 acres a day. We don't make new prime ag land. We don't make new food production land. As soon as you go into aggregate production—

Mr. Gilles Bisson: So you would support such an amendment?

Mr. Keith Currie: I would support it, yes.

Mr. Gilles Bisson: The other thing is—first of all, what we're trying to do with this bill is a good thing. I don't think anybody will disagree. The problem is that this is really just a—not your—I was grabbing your presentation. Sorry.

The bill is actually—essentially, there's very little in detail. It's mostly left to regulation. Does that bother you that the policy is not set in the bill? Rather, the policy will be set in the regulation, which means to say that what we pass now may look very different once it's done the regulatory process.

Mr. Keith Currie: I'm going to turn it over to my colleague, Peter.

Mr. Peter Jeffery: I think, to a large part, the operational standards dealing with day-to-day operations, siting and rehabilitation are already addressed in both regulation and operating standards, so I think that's the reality that we're operating under—

Mr. Gilles Bisson: No, the reality of the Legislature is that normally policy is set within legislation, and the day-to-day, the minutiae of how you make that work, is what we deal with in regulation. What's happening is we're shifting, where we're delegating our authority as legislators from the assembly to cabinet, which means to say that once this bill is passed, you probably would never have to bring another bill to make any changes to the aggregate act because a future cabinet could do what they want. Is that a good thing, in your view?

0910

Mr. Keith Currie: I guess it depends. If it's done right, it's okay. If it's not done right—that's the committee's job to make sure it's done right.

Mr. Gilles Bisson: That's exactly the point. But once it leaves here, we're done, because it will be all up to regulation and it will be up to this cabinet and future cabinets to decide. This cabinet may do the right thing. They may do great regulations that do everything everybody wants, and then if a future cabinet comes into place and decides to change it, you're going to be up the crick without a paddle.

Mr. Keith Currie: Well, certainly, I would support the ability to have the policies be flexible through regulations that can be changed.

Le Président (M. Shafiq Qaadri): Merci, monsieur Bisson. Maintenant, au gouvernement. To the government side: Mr. Colle.

Mr. Mike Colle: Thank you very much. I know trying to answer these inside baseball questions is not easy. They are significant for us at Queen's Park, and I think it's a good question.

I'm interested in one small provision in this bill which allows for the continuation for individual farmers, if they have little pits for their own use on their property, for doing things around their own property. Do you think maintaining that ability for farmers to do that is a worthwhile thing to keep in the legislation?

Mr. Keith Currie: That's a tough one to answer because it would depend on the aggregate resource you were talking about. Own use is certainly something that most farmers want the ability to have. It depends on its impact, overall, on the location of that resource. Is it in ground that that isn't good-quality, productive farmland? Then why not mine the resource? But if you're taking away some prime producing area of the farm, I'm not sure that we could support that.

Mr. Mike Colle: Many of these are just very small-scale. A lot of people don't even know they exist. They have just been traditionally used by that farmer to do what they have to do for their own construction purposes. Sometime, down the road, they may use them from time to time. That's what I'm talking about. I'm not talking about the potential for a marketable quarry on farmland. I'm talking about the small, little—

Mr. Keith Currie: So these would be non-licensed or licensed?

Mr. Mike Colle: They're non-licensed. They exist on a lot of farms all over Ontario. Farmers have had them and passed them on for use from generation to generation.

Mr. Keith Currie: Well, I guess—again, it would depend on the location of that resource. It's pretty hard to control an individual landowner if they are going to use a portion of their property that might be conducive for some gravel resource, for example, to build up their laneway or support their yards or facilities. If it improves the production of their facility, I think we could certainly support that, for sure, as long as it's not affecting the prime ag land production.

Mr. Mike Colle: Yes. In terms of the other thing, about rehabilitation of these pits and quarries down the road—no pun intended there—but is it feasible to rehabilitate them into prime farmland? Has that been your experience?

Mr. Keith Currie: Yes and no. There are examples where it hasn't happened; there are examples where it has happened. I know that we have, in the past—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Colle, and thanks to you, Mr. Currie and Mr. Jeffery, for your deputation on behalf of Bioindustrial Innovation Canada.

GOLDCORP INC.

The Chair (Mr. Shafiq Qaadri): We now invite our next presenter to please come forward: Ms. Terry Bursey,

aboriginal and community affairs co-ordinator, Goldcorp Inc., Red Lake gold mines. Welcome. You have seen the drill: 10 minutes in which to make your presentation; a rotation of questions afterward. Please begin.

Ms. Terry Bursey: I would like to first thank this committee for holding these public hearings regarding Bill 39. I'm honoured to be here.

I have spent 30 years working in Canada in research, exploration and mining. Currently I work in Red Lake for a producing gold mine. Although I'm a geologist, my current role is aboriginal and community relations.

Since 2012, I have sat on the land advisory committee, a collaborative committee between the Ministry of Northern Development and Mines and industry, to rigorously review the current practices under the Mining Act and advise on modernization of those practices, particularly the conversion from ground staking to online staking. This committee has seven industry members, and they represent the different geographic regions across Ontario and also the varied interests, from prospecting to exploration, consultation, land management and also production in producing mines. As stated, this committee started in August 2012. That is four and a half years that we've been working with the MNDM director and project lead for Mining Act modernization and his technical team.

The key point I wish to speak to is the importance of conversion from the current practice of on-the-ground staking to online staking as proposed in this bill in the amendments to the Mining Act. This change accommodates the concerns of both industry and the surface rights holders and land users, being the aboriginal communities.

Industry's greatest concern over the past decade is certainty: certainty of their land tenure and subsequent permitting. Online staking allows for the real-time, confidential acquisition of mining lands. And yes, this is pre-consultation with First Nations. However, with online staking, there isn't any physical access to their lands, so they remain undisturbed. This is key.

First Nations communities' greatest concern is consultation prior to disturbing these lands or entering their traditional territories, where they practise their aboriginal and treaty rights. Implementation of online staking, as presented, allows for certainty for industry while respecting those First Nations concerns for consultation prior to exploration. Real-time notification is sent to these communities, and subsequent consultation, relationship building and collaboration can proceed. This was regulated under phase 2 of the Mining Act modernization, as required to receive exploration plans and permits.

The second important part of Bill 39's proposed changes to the Mining Act that I think has received little consideration is how online staking will locate historic and future cell claims of mining lands according to a provincial grid system in digital space. Mining lands tenure will have accurate, defined boundaries in a digital coordinates system. Presently, claim boundaries are defined by erecting posts physically on the ground with handheld GPS coordinates and, historically, simple sketches.

Having accurately defined boundaries, again, adds certainty and confidence to attract investment in exploration in the province of Ontario. This aligns with the ministry mandate to encourage, promote and facilitate sustained economic development of mineral resources in Ontario.

Lastly, the proposed mining lands administrative system will enhance customer service and the ability for industry or the landholder to self-manage their land tenure with increased flexibility for retention of their lands and future planning. Without certainty of land tenure, including the precise location of our mining claims, Ontario lags to attract investment as compared to other provinces or regions in Canada.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Bursey. We'll now turn to the NDP: Monsieur Bisson.

Mr. Gilles Bisson: So, generally, you're supportive of the legislation?

Ms. Terry Bursey: Absolutely.

Mr. Gilles Bisson: Okay. On the claims staking versus map staking, just by way of a story: I always thought that map staking was an unfortunate way of going. I understand that modern technology moves us in that direction, as did the computer and everything, but for a lot of First Nations, that was a part of the work that they got, when it came to being out in the bush and cutting lines and doing map staking.

But that's just me bemoaning the old days. You don't need to particularly comment, but if you want to—

Ms. Terry Bursey: I will comment. Staking is a very small portion of the exploration or dollars spent. I think the balance between having lands undisturbed and the certainty of those claims far outweighs map staking.

In terms of line cutting and other things, once those claims are staked, there is a lot of line cutting and work on the ground for geophysical surveys and further exploration.

Mr. Gilles Bisson: I was just chatting with a guy the other day who was bemoaning that very fact, because a lot of them used to go out. They'd get hired by the explorationists to out and do that work, and they don't get that work anymore. They get the stuff that comes down the line after. I'm just saying, for those guys—

Ms. Terry Bursey: Staking on the ground—it's one day to stake a claim. So there's a lot of work that comes afterward.

0920

Mr. Gilles Bisson: Thank you.

Ms. Terry Bursey: You're welcome.

The Chair (Mr. Shafiq Qaadri): Monsieur Bisson, did you conclude your time? Thank you.

To Ms. Hoggarth.

Ms. Ann Hoggarth: Thank you for your presentation, Ms. Bursey. Our ministry has held many engagement sessions. It has included 150 engagement and information sessions with indigenous people, industry clients, industry organizations, environmental non-government organizations, special interest groups and the general public through two Environmental Registry and Regulatory Registry postings.

Further, the ministry has conducted 332 individual client sessions and over 350 individual claimholder follow-ups to keep clients informed of their requirements and the progress of the project.

Is there any aspect that you would like to receive more information on to help you feel prepared for the transition?

Ms. Terry Bursey: As a client of the system?

Ms. Ann Hoggarth: Yes.

Ms. Terry Bursey: It's a great question, because as much outreach as you do, there are still people who aren't going to pay attention. I don't think that's the fault of the ministry or the outreach that has happened.

I feel like we've been very well informed and very well contacted. The company I work for—Goldcorp—has had personal sessions with the ministry, personal information sessions. They are offering sessions with any client who wants it, to pre-convert their lands to see what it's going to look like after conversion happens, if these amendments pass.

I don't feel that there is more that can be done. Whether the proponent pays attention is another question.

Ms. Ann Hoggarth: Okay. Could you explain what kind of supports industry might need from the ministry staff to ensure that the conversion to the new system is successful?

Ms. Terry Bursey: There's a lot of information that is out there and that is offered by the ministry. They have a full session on their website. They offer individual consultation sessions—or working sessions, rather—to physically take your current lands and do a mock conversion. I'm not sure what else can be offered. I'm not sure what you're asking.

The Chair (Mr. Shafiq Qaadri): Madame Des Rosiers.

M^{me} Nathalie Des Rosiers: My question: As you said, the Ontario system now is not as competitive as other provinces that have moved or other regions that have actually a better system. Can you tell us more about the other places that have moved there?

Ms. Terry Bursey: I wouldn't say that it's not as competitive. My suggestion is that certainty of your land tenure is something that an investment company or an industry looks for. Other provinces have switched to online staking—

M^{me} Nathalie Des Rosiers: Which ones?

Ms. Terry Bursey: There are two in process, I believe—I had it written down somewhere—BC, Saskatchewan, Northwest Territories, Quebec.

M^{me} Nathalie Des Rosiers: Okay, so we would be moving—

The Chair (Mr. Shafiq Qaadri): Merci, Madame Des Rosiers.

To Mr. Miller, PC.

Mr. Norm Miller: Hi. Thank you for your presentation. Basically, you're saying that the rest of the world is moving from the traditional staking—being out in the bush and cutting down the tree and putting your prospect-or's licence on the stake—to this online system, and that that's a positive thing, from your perspective.

It's positive because you don't actually have to be in the bush, especially from the indigenous, aboriginal perspective of having to set foot on the land to actually stake the claim, and then you can start the consultation process after you've staked the claim. Is that part of what you're saying?

Ms. Terry Bursey: That's correct. I think, further to the physical process, the new system has a provincial grid laid out.

Mr. Norm Miller: So it's more accurate?

Ms. Terry Bursey: Incredibly more accurate. That's a huge, huge issue.

Mr. Norm Miller: I have actually staked six claims once in my life. I'm sure the six I staked probably weren't exactly where they were supposed to be, so I can relate to that.

Ms. Terry Bursey: Right now, that creates a lot of disputes, because your actual land tenure is physically the area between the posts on the ground, as opposed to having a digital cell you click on to stake a claim with defined boundaries, which will always be the same boundaries in the future. The same claim can be staked and let go and re-staked.

Right now, your physical area on the ground is subject to the interpretation of finding those claim posts again and drawing those lines accurately on a map, when you're planning dual programs or exploration. So yes, it creates uncertainty, which causes stress.

Mr. Norm Miller: I assume that traditional prospectors would be opposed to this change because they're going to lose the work of actually staking the claim. You're saying that that's a very small part of what the people on the ground do, that there's more work cutting the lines and doing fieldwork afterwards.

Ms. Terry Bursey: I don't want to undermine the view of the claim staker who has had a livelihood, but, yes, it is a small portion of the dollars spent on that property. So you spend a little bit of money acquiring that claim, physically on the ground, and then you spend years of holding that claim. It's exponential, the dollars spent after the original—

Mr. Norm Miller: As the aboriginal community affairs coordinator, I assume that the new system should lead to less conflict with First Nations from some prospectors just out in the bush.

Ms. Terry Bursey: Yes, it's a more respectful system, that you acquire your land without physically disturbing the ground, so that you can then go through the process of consultation to get your plan's permits to work the ground. You have to know phase 2 of the Mining Act to talk about—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller, and thanks to you, Ms. Bursey, for your deputation on behalf of Goldcorp, Red Lake gold mines.

CITIZENS AGAINST MELROSE QUARRY

The Chair (Mr. Shafiq Qaadri): Our next presenters are, I believe, still to arrive: Sue Munro and Danielle Emon.

Interjection.

The Chair (Mr. Shafiq Qaadri): Wonderful; you're here. Thank you very much. Please do come forward. You're hiding; welcome. Please be seated. As you've seen, it's 10 minutes for introductory remarks. Please do introduce yourselves, as well, for the purposes of Hansard. Of course, we'll distribute your material. Please begin officially now.

Ms. Sue Munro: Thank you. My name is Sue Munro, and I'm here with Danielle Emon. We represent Citizens Against Melrose Quarry, a not-for-profit organization by citizens who have a deep concern for a proposed additional quarry in our township. We are a rural and farming community with no municipal drinking water system, and appear to fall outside the scope of the Clean Water Act, the Safe Drinking Water Act and other pieces of legislation.

The current Long's Quarry has been operating below the water table in our township since the mid-1990s, but not without documented concerns. A 2004 proposal to amend the Hastings county official plan to allow an additional 60 acres drew concerns and is documented in the planning minutes.

In 2011, the MNR posted a notice for an ARA licence. Citizens objected and sent copies of their letters to the township and county. In 2013, Tyendinaga township posted a notice for zoning. The proponent had nine years to get his act together and we were given five weeks to respond. Zoning and licensing issues are still outstanding.

Hastings county adopted the plan in 2004. Four months later, the MMAH notified them asking them to repeal that motion and adopt a new one, which they did not. The EBR closed in 2004. Seven years later, in 2011, the consultant's reports were finally produced. Citizens were not contacted or informed, nor was the EBR reopened.

The MMAH stated: "This amendment has little potential to impact aboriginal interests." In fact, there already had been research done for a land claim on that exact location. There had been two other land claims in Tyendinaga.

The official plan was passed in 2012 with an outstanding MNR objection re endangered species.

The proponent told the county that there would be no increase in the tonnage by adding the second quarry; however, the MNRF confirmed that, in fact, it would double the amount of aggregate. We want to know why ministries rely on the operator's word.

We wish to thank representatives from the MOECC and the MNRF for a meeting last fall, where we looked at our current concerns.

Going back, though, in 2005, the proponent was denied a permit to take water, but continued to operate. The MOECC became aware of this in 2011—no charges. The one-window MMAH review referenced Long's Quarry, so obviously they knew it was operating. We wonder why they let it operate with the permit.

In 2012, there was a permit issued—you've got the amounts there before you. It was not posted on the EBR.

0930

Requests to the MNRF for inspections from 2004 to 2011: That time frame netted one inspection that was labelled “above water,” even though this was clearly in a below-water operation. We want to know if the MNRF knew that he was operating without a permit to take water.

In 2014, the MOECC issued a one-year permit to take water for that same quarry, and the Canadian Environmental Law Association filed a successful leave to appeal on our behalf. The ERT heard the case. Some of the conclusions: This region contains one low-yielding, vulnerable aquifer. The nearest municipal water supply is 20 kilometres away. It questioned why domestic well users and farmers would not trigger studies. The aquifer surrounding this quarry has already been largely drained. The proposed quarry would double the footprint. They recommended a cumulative impact study should the next quarry be approved.

Citizens took on the financial responsibility for hydrogeological studies required to inform CELA’s legal team. Dianne Saxe, the Environmental Commissioner for Ontario, reviewed this hearing and said, “Is this really the best way to protect and allocate groundwater?”

Ms. Danielle Emon: These are our concerns: The current permit to take water for Long’s Quarry was issued in 2015 and is valid for five years. MNRF has lifted the restriction on the endangered species, even though its status is still listed as threatened, and has stated that the current ARA application will be referred to the OMB.

Peer reviews are being paid for by the municipality. To date, hydrogeological concern remains a barrier. In 2013, the hydrogeological peer review concluded that it could not support aggregate extraction at this location. In spring 2014, the Hastings county planner opened a professionally stamped letter and requested that a peer reviewer change their conclusion from “cannot support” to “can support” the ARA and permit to take water applications, subject to specific recommendations.

The Hastings Federation of Agriculture assisted with the costs for a planning review. The quarries are situated close to a recreation centre and between the hamlets of Melrose and Blessington. The main haul route runs past an elementary school. Building permits for homes have continued to be issued in the vicinity, despite the OPA application 13 years ago.

While the EBR Statement of Environmental Values shows support for sustainable use of water, we have difficulties finding corresponding language to protect rural drinking water and agricultural sources. The Clean Water Act places an emphasis on municipal source water protection. In a letter to the Honourable Glen Murray, CELA makes reference to the Auditor General’s reports of 2014 and 2016, which request that the ministry “address threats to sources of water that supply private wells and intakes.” CELA calls for an expansion of the regime in order to include private wells in statutory and

regulatory protection schemes that currently fall through the cracks.

The ARA, sections 11 and 26, calls for an amendment to clause 12 of the ARA to include municipal drinking water sources. We respectfully ask that the word “municipal” be removed from these clauses and replaced with the phrase “drinking water sources.”

Through our experiences, we ask:

- for openness and transparency with our ministries;
- for better cross-communication between ministries;
- that Bill 39, and ultimately all legislation that supports the sustainable use of water, protect rural well users and not just municipal water supplies;
- that the MNRF consider other ministries’ non-compliance issues when assessing aggregate licences for compliance;
- that when assessing impacts on groundwater, consider large-volume water-taking and residential and agricultural water needs, coupled with research on climate change, and ask, “How does pumping billions of litres of water affect a highly vulnerable and weak recharge environment such as the one near Blessington Creek in Tyendinaga township?”;
- that MNRF utilize a peer review process in its decision-making;
- that soil study and testing be mandatory on land proposed for aggregate that is currently growing crops;
- that aggregate licence applications be time-limited; and
- that funding be made available to citizens for expert advice and peer review, particularly if the MNRF is referring the case to the OMB for a decision.

In conclusion, on November 15, 2016, the Honourable Kathleen Wynne stated that “it is unacceptable that anyone in Ontario would not have clean, drinkable water.” In 2010, the United Nations recognized the human right to water. When placing a high priority on close-to-source aggregate, gaps in oversight and legislation leave rural residents vulnerable, particularly with regard to drinking water and water for agricultural uses. We ask that through this legislation you set the standard for addressing rural water use to ensure safe and healthy communities.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Munro and Ms. Emon. We’ll begin with the government: Madame Des Rosiers.

M^{me} Nathalie Des Rosiers: Thank you very much for coming in. Thank you for being so active in protecting access to water in your community. It’s very impressive.

I have the legislation in front of me, and I understand that your concern is mostly that when we do say that the potential impact on ground and surface water resources must be considered, you’re saying, “Don’t look only at municipal. Look at all access to water, including the rural.” That’s the gist of the amendment that you would like to have in here—I understood that correctly?

Ms. Sue Munro: Yes. In our area, 48% is all well water, so there is only 3% in that area, in Hastings coun-

ty—that watershed—that are municipal. So to say “municipal,” you’re only including peanuts.

M^{me} Nathalie Des Rosiers: Okay. I read your very well-written and really thoughtful presentation here. The other part, I think, is that you’re linking it to the necessity of help when it goes to the OMB, which is another aspect of—

Ms. Sue Munro: Huge, because it has cost us close to \$100,000 to protect our community. That’s wrong.

Ms. Danielle Emon: Well, 48% of users in Hastings county have access to source water; 3% are on municipal wells. The rest are on private wells. People within our area are totally on private well water. So the concerns are very real, especially when you have several head of cattle as well and you have other concerns. It doesn’t always resonate with people who can turn on the tap.

M^{me} Nathalie Des Rosiers: But I hear you.

Ms. Danielle Emon: But it’s very different.

M^{me} Nathalie Des Rosiers: Yes, I had a cottage around there.

Ms. Sue Munro: We just talked to farmers last night. There are roughly 1,000 head of cattle in this half-kilometre region that they want to open up additional quarry space in and pump out that amount of water, which, in turn—those operations are here and now, and we could simply put them out of business. And, again, we bring you back to a rather non-compliant operator, obviously, who, despite the ministry’s—have been unable, or for whatever reason, it hasn’t happened. It’s very concerning when someone operates for six years and nobody catches them. And when they do, nothing happens.

M^{me} Nathalie Des Rosiers: That’s an issue of enforcement. You want this to be brought up, and I hear you loud and clear on this.

Ms. Sue Munro: We want to bring the community perspective—

The Chair (Mr. Shafiq Qaadri): Merci, Madame Des Rosiers. To the PC side: Mr. MacLaren, three minutes.

Mr. Jack MacLaren: Are you currently experiencing an effect on your water supply or quality at this time?

Ms. Sue Munro: The fact is, it’s hard to measure. The local farmers talk about how, over the years, the water table has gone down. When we went to the ERT, of course the proponent, who is big into the gravel industry, said, “Well, you know, all we do is pump out rainwater.” But that rainwater is not recharging into the ground. If we were to listen to our farmers, they’re saying there are changes, but when you don’t collect records for a huge period of time, we have no idea what has been pumped out of there—no idea.

Ms. Danielle Emon: Two years isn’t enough to measure—

Ms. Sue Munro: Anecdotally, the farmers say yes. If you’re asking the aggregate industry, they’ll say no.

Mr. Jack MacLaren: So what would you like to see happen to protect your water supply?

Ms. Sue Munro: I’d like to see that in that legislation, it says “all water supply,” because we know in our

county that that will be turned around to say, “That doesn’t apply to you. That just applies”—we’ve really struggled at every level, as you can see, because aggregate is such a big thing that people are turning a blind eye. It’s not that it isn’t important; we all need it, but not to the detriment of the health and safety of a community.

Ms. Danielle Emon: Is there something else that we could do with the process? Can we get the horse going before the cart, so to speak, and can we ensure that our protections for water are ensured prior to promising or putting applications in place for zoning and for aggregate and getting those licence applications in place? Can we address water first, prior to doing the rest?

Ms. Sue Munro: To me, just quickly on that, instead of close to source, the number one thing across the table should be that there is going to be no impact from water-taking on the rural community, period. Then we’ll worry about how close you are and all this kind of stuff.

Mr. Jack MacLaren: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. MacLaren. Mr. Bisson.

Mr. Gilles Bisson: The amendment in regard to what you were just talking about is commented on in your resolution. Let’s say this legislation were to pass without that. Would you support this legislation?

Ms. Sue Munro: No, because it doesn’t protect the rural areas. It is protecting municipal water supplies. If I lived in Madoc, which is a half-hour up the road from me, and I had a municipal water supply and there were quarries there, then I would be protected. But where I live, this will be interpreted—trust me—to say, “It says ‘municipal.’ It doesn’t say ‘all.’”

Mr. Gilles Bisson: With the amendment, would you support it?

Ms. Sue Munro: I would say to take out the word “municipal.” We would support it if the focus is on water, number one, and then after that, however it falls in place.

Mr. Gilles Bisson: And other amendments? Because I went through your package and I wasn’t clear on what you wanted amended other than that particular point. Are there other amendments that you’re looking for?

Ms. Sue Munro: Any place it refers to water, and I think we’ve kind of—maybe we haven’t been as clear as we should, but we did mention section 11(1) and 26(h) and clause 12(1)(e). Anyplace where it says “municipal water,” we’re saying to please take that word out, because it’s going to be misinterpreted, and just put “drinking water sources” so that we, as citizens, can hold our decision-makers accountable.

Mr. Gilles Bisson: Okay. Thank you.

The Chair (Mr. Shafiq Qaadri): Thanks to you, Ms. Munro and Ms. Emon, for your deputation on behalf of Citizens Against Melrose Quarry.

The committee is now in recess until 2 p.m. this afternoon.

The committee recessed from 0942 to 1401.

The Chair (Mr. Shafiq Qaadri): Thank you, colleagues. I reconvene the Standing Committee on

Justice Policy. As you know, we're here to consider Bill 39, An Act to amend the Aggregate Resources Act and the Mining Act.

ASSOCIATION OF MUNICIPALITIES OF ONTARIO

Le Président (M. Shafiq Qaadri): J'ai le plaisir d'inviter notre première présentatrice : Lynn Dollin, président of AMO, the Association of Municipalities of Ontario.

Welcome to you and your colleague. Please be seated. As you've seen, you have 10 minutes to make introductory remarks, to be followed in rotation by each party—three minutes. Of course, it will be timed with military precision. You may begin maintenant—pardon?

Interjection.

The Chair (Mr. Shafiq Qaadri): And introduce yourselves for the purposes of Hansard. Go ahead.

Ms. Lynn Dollin: Thank you, Mr. Chair. It's a pleasure to be here today. My name is Lynn Dollin. I am the president of the Association of Municipalities of Ontario. With me is Cathie Brown, a senior policy adviser for AMO.

AMO represents the collective voice of municipal governments, large and small, from every corner of this province, those experiencing growth pressures and those experiencing shrink pressures. Almost every municipality in Ontario either hosts a pit or quarry, is a haul route, or is trying to manage abandoned pits and quarries. Of course, we all use the products coming from these pits and quarries, so my remarks will first focus on the aggregates rather than mining, and second, focus on those parts of the bill we hear are under debate.

We all acknowledge that aggregates are a controversial subject. While the production of aggregates is essential to our economy, the impacts of the operations on neighbours and municipal roads is negative and cannot be ignored.

On an annual basis, about 150 million tonnes of aggregate are produced in Ontario. This is used in all aspects of development by municipal governments and private citizens, as well as corporations, for the maintenance of roads, sidewalks, bridges, buildings and other critical infrastructure. Aggregate production is essential. While aggregate production takes place in every corner of the province, nine of the top 10 producing municipalities are within a couple of hours of this building, and this accounts for roughly one third of the production in the province.

Though this part of our economy is important, the impacts are equally important. We are fully aware of the concerns our citizens raised during the Stop the Mega Quarry campaign. Noise, dust, road deterioration, concerns about water quality, loss of farmland and natural heritage features, plus impacts on property values are real concerns and more than just a pesky inconvenience.

Farming and farmlands are equally a key industry and policy priority for the province and local municipalities.

Once prime soils are disturbed through aggregate operations, they never really are rehabilitated to the same condition. These are important choices, irreversible choices. The people in our province want to know that there is a proper oversight of the aggregate industry and that their interests and their investments are being protected by their governments.

As municipal governments, we know that it is the province that has this responsibility, and yet we are often the target of public frustrations. We need a greater partnership from the province to work with us to plan aggregate operation locations and developments in a way that balances out the expectations of the industry with the expectations of local citizens and the other policy expectations established by the province.

For several years, the Ministry of Natural Resources and Forestry has been extensively consulting on this very important issue. This resulted in the Blueprint for Change document, which again was subject to consultation. AMO supports this blueprint, and we see Bill 39 as being the necessary first step to implement this direction.

Specifically, municipal governments support section 64 of the bill, which gives the minister authority to require reports and studies for existing sites, as the present approach has not been effective. The environs around a pit or quarry are not static. Neighbouring land uses, standards and policies change. It is only reasonable that aggregate operations keep pace and work within the current landscape, not the landscape that existed years ago when the licence was issued. There is no static state which can create certainty for any land use or any industry.

The local setting changes, and all new initiatives are normally subject to studies to evaluate the impact of the initiative. Studies and reports, as outlined in the bill, are a meaningful foundation from which all parties can work to balance all interests. We are supportive of the clauses that permit the minister to require such studies. The aggregate industry is very experienced in the Ontario context and can likely anticipate what types of concerns requiring further study will arise as they change their operations.

AMO recommends that any reports, notices, tests and studies be shared with both the host and upper-tier municipal governments; then all parties have the same basis of information from which to make decisions. We look to regulations to ensure that this takes place.

AMO also supports an accounting of the amount of aggregate, including recycled, which leaves an aggregate operation. Meaningful fee structures or royalties need to be based on meaningful statistics about how much is moved along the haul routes. We should note that if the fees do not cover these expenses, then the municipal taxpayers pay for this damage. There need to be greater controls over the quality of recycled aggregates; materials may be contaminated, and AMO supports the tracking and management of all recycled materials that may be used in roads and structures. Recycled aggregates cannot be "policy orphans." They need to be accounted for as part of the overall production.

AMO is concerned that to make this bill effective, MNRF will require additional resources, specifically staffing, to review documents and enforce as needed. While modernization of many administrative functions is taking place, staff are needed to review studies, provide advice and guidance and, yes, provide inspections and enforcement. We have only one environment and, as the Ontario landscape takes on a more urban or developed character, we need to appropriately fund MNRF to undertake the role of managing the natural environment.

Municipal councillors are easily found by citizens, and we have heard concerns about changes to the aggregate framework. For example, some will say that recycling won't work without greater oversight. AMO agrees, and believes this bill will set the framework required to harmonize recycling aggregates with recycling of excess soils from construction. There have been gaps in tracking recycled materials from source to ultimate reuse or disposal. This bill will set in place needed requirements to help fill these gaps.

We have heard concerns that more studies will bring about delays, and the general public needs better education about the environment and aggregates. Again, we believe this bill and the blueprint will create a framework to allow greater information to flow between the interested parties.

This bill brings new oversight to water quality concerns. There is value in taking the time to understand the impacts of actions on the neighbouring environment; it is a system, interconnected. Again, it is important to have MNRF sufficiently staffed so reports can be protested—ahem, processed—in a timely way, and frivolous or obstructionist positions shown for what they are. This bill creates the opportunity for balancing aggregate uses with other equally significant land uses.

We are aware that there is concern about First Nations consultation. Surely, we all agree this must be a priority. The questions arise about what constitutes “sufficient.” This is an evolving area. Municipal governments share questions about consultation but know it is a larger issue that is unfolding in all areas of public endeavour. We cannot shy away from improving just because it is difficult and there are unknowns, but, equally, we want to ensure that expectations are realistic and processes are effective.

We have also heard concerns that the fees and royalties need to reflect actual wear and tear caused by the industry. We understand this concern and we believe that the FIR produced by the municipal governments each year contains this information that is needed. It's submitted to the Ministry of Municipal Affairs, and each and every one is a public document. It has ample open and accountable data so that the public, any industry and the government can be fully assured that the funds are appropriately spent by municipalities.

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Naturally, this bill will require a number of regulations, and AMO looks forward to working together with the province as these are developed. That said, we cannot

get started until the framework is in place. AMO believes the framework necessary to move forward to resolve and improve aggregate-related matters can be found in this bill.

The Chair (Mr. Shafiq Qaadri): One minute.

Ms. Lynn Dollin: We urge that Bill 39 move forward without amendment. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Dollin. Just to let you know that members of the government are on standby for both “process” and “protest” either way.

In any case, we'll now move to the PC side: Mr. Miller.

Mr. Norm Miller: Thank you for your presentation. I guess I'll start with your point about recycled materials, that you're in favour of them being included as part of the licence for the aggregate operator. We've heard operators say exactly the opposite of that, and a concern that actually, if you include it as part of their licence, there's a disincentive to use recycled materials. I would think we all want to encourage using recycled materials. I just wondered if you could expand upon that, or maybe you have an idea of how that negative could be another workaround for that.

Ms. Lynn Dollin: Certainly, we're in favour of using recycled materials, but recycled materials in a truck weigh just as much as the virgin materials do in the truck, and they do create problems with our roads and require those roads to be remediated.

Also, I think that there is definitely a gap with the excess soils in the construction debris. I know in my municipality it has been a huge concern. I've come to following dump trucks down the road when I see one. It can't be left with just best management practices. It needs to be enforced because there's just too much money to be made in this industry. There are soil dumps happening all throughout rural Ontario within close proximity to the GTA. It is very hard to police. It takes municipal governments. We've got almost two full-time staff who do nothing but try to stop this practice from happening.

Mr. Norm Miller: So you think there's a way to count the recycled material as far as royalties but not have it apply against the usage that a company has, the maximum tonnage for their pit, for their quarry?

Ms. Lynn Dollin: That seems reasonable to me. As long as it's counted in the wear and tear on the roads and the haul routes.

Mr. Norm Miller: That's the part you're concerned about: the royalty being paid so that then the money goes to municipalities to help maintain the roads.

Ms. Lynn Dollin: Yes.

Mr. Norm Miller: Okay; thank you for that. In terms of the companies that have been here, another differing perspective from you is that some companies didn't like the idea of the minister being able to require studies to be done. I think their main point was that there's a lot of money involved in getting a licence, and once you have it, you need to have some certainty that you're actually

going to be able to excavate and sell that product, and that creates uncertainty. Do you want to expand on the reasons why you think this is required, or what you think would come from it?

Ms. Lynn Dollin: Certainly. We all know that this is regulated by MNRF, but we also know that it's the municipal councils that it falls back on, as far as—

Le Président (M. Shafiq Qaadri): Merci beaucoup, monsieur Miller.

Maintenant, je passe la parole à M. Bisson. Trois minutes.

Mr. Gilles Bisson: Hello, and thanks for your presentation; it's much appreciated. We all know that municipalities often find themselves on both sides of having a quarry established in their community.

I have a question. In a recent case in the city of Timmins, the city of Timmins voted not to allow a quarry to be developed, but of course the individual who wants the quarry appealed to the OMB. Should we put something in this bill that prevents that type of appeal to happen? Should not the ultimate decision within a municipal boundary be up to the municipality, or should you let the provincial policies set that?

Ms. Lynn Dollin: I think that the province is moving towards having more deference for municipal decisions, but I think that municipalities' decisions should be forthright.

Mr. Gilles Bisson: Okay. One of the other things that—let me just look at my note that I took here—you were talking about was on the recycling. Essentially you're saying, yeah, let's move to what's being proposed in the bill.

Ms. Lynn Dollin: I'm prepared to say that, yes, we're using recycled material, as long as the finished product is still going to last and be of good quality. My issue is the fact that, whether it's recycled or whether it's virgin material—and if it's going over those haul routes, it's bothering those residents and it's deteriorating their road, that there should be the tariff attached to it.

Mr. Gilles Bisson: Okay. That's all the questions I have.

La Présidente (M. Shafiq Qaadri): Merci beaucoup, Monsieur Bisson.

To the government side: Madame Des Rosiers.

M^{me} Nathalie Des Rosiers: First of all, thank you very much for your presentation, thank you for your presence today and thank you for your very good overview of the legislation.

I wanted to give you the opportunity to maybe finish your answer on why you thought it was important that the minister had the ability to require studies on an ongoing basis, if you wouldn't mind.

Ms. Lynn Dollin: Thank you very much for that opportunity. Yes, I think that it's important.

First of all, I think that the aggregate industry is well aware of the different studies that are required. We are the people on the front line who are in the grocery store and deal with the people who expect us, being municipal politicians, to have their back. So I don't think having the

opportunity to ask the minister to require certain studies is inappropriate.

We've also got the issue of what I would call "cumulative impact," where sometimes what aggregate operators will do is apply for a small pit or quarry, deal with the local issues and the citizens, and then maybe ask for an extension on that, knowing it's going to be easier because one foot is in the door; the pit is there and there's going to be less opposition for the larger—being able to look at the big picture beyond that one scope and look at communal impact is, I think, something that there should be the option for, if required.

M^{me} Nathalie Des Rosiers: A follow-up: I understand that you like the transparency aspect, the good sharing of information that you mentioned, and I take it that you're also concerned—appropriately so—about the fees that are important for municipalities. I take it that the framework allows for a good conversation on that part. I wonder whether you have any additional ideas about why it's important to have this overdue modernization of the fee structure.

Ms. Lynn Dollin: Thank you. Yes, because there is such wear and tear on all roads—whether provincial, regional, county or local—they need to be repaired. Residents aren't prepared to let them deteriorate, and we're prepared to say to the aggregate operators that that money is being spent on the roads. Through our FIR you can see—if the aggregate companies are saying, "Well, how do we know they're actually spending that revenue on roads?" We're prepared to show them that we're spending that money on our road infrastructure.

The Chair (Mr. Shafiq Qaadri): Thirty seconds. Ms. Vernile?

Ms. Daiene Vernile: Just a quick comment, Lynn: I hear you on the grocery store diplomacy. This is where I seem to do most of my meetings. I can barely get through the local Zehrs in less than two hours. As an elected representative, people like to come up to ask you what you're up to and to share their opinions with you, so you have my sympathy. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Vernile and Madame Des Rosiers, as well to you, Ms. Dollin, for your presentation on behalf of AMO.

TOWNSHIP OF ZORRA

The Chair (Mr. Shafiq Qaadri): I now invite our next presenters to please come forward. Representing the township of Zorra: Mayor Lupton, Councillor Keasey and CAO MacLeod. Welcome. Please do introduce yourselves. You may begin now.

Mr. Don MacLeod: Thank you. My name is Don MacLeod, CAO of Zorra township.

Ms. Margaret Lupton: I'm Margaret Lupton. I'm the mayor of the township of Zorra.

Ms. Marie Keasey: And I'm Marie Keasey. I'm councillor for ward 2 of Zorra township.

Mr. Don MacLeod: Good afternoon, Chair and committee members. Thank you for allowing us this opportunity to present our concerns regarding Bill 39.

Zorra township is a small rural municipality in Oxford county that is rich in aggregate resources as well as being home to some of the most productive farmland in North America. We are home to over 40 licensed pits and quarries, and these licensed pits and quarries encompass an area of over 2,500 hectares with permitted extraction of over 23 million tonnes. To put this in context, the area of land licensed for aggregate extraction in Zorra township would cover 25% of the town of Richmond Hill, or almost 9% of the city of Mississauga. In the last reporting year, 2015, Zorra was the eighth largest aggregate-producing municipality, with over 4.1 million tonnes of aggregates produced.

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Bill 39 is the enabling legislation that follows over six years of study and review. The township has been patiently waiting for this legislation due to our role as supplier of aggregates for southwestern Ontario.

Throughout the legislation, there are many references to regulations. The Blueprint for Change also listed off key proposed changes that will be dealt with by regulation. Will there be the same consultation on many of the key changes? Zorra would like to be actively involved with this process. We have many issues that we have great concern with.

Today, we have a number of specific comments on the legislation, as well as general concerns for areas that we feel should be strengthened or included in this legislation.

Section 11 introduces the concept of a custom plan to carry out the notification and consultation requirements of this section. This approach can be used to set out alternative or additional procedures to those legislated in subsection 11(1), although it is unclear if this type of customized plan will be required for proposed extraction activities over a certain size or magnitude. The act or regulations should clearly establish the circumstances under which such alternate procedures could be considered, including the need for formal pre-consultation with affected municipalities on their requirements and expectations. The ARA summary statement should also include that an ARA consultation plan be provided in plain language.

Section 12.2 amendments will remove the requirement of the licensee or MNRF to send the licence and final site plan to the local municipality. It is unknown if this requirement is intended to be relocated to the regulations or removed from the process entirely. The township strongly disagrees with removing this section. It is unfair to the local municipality and our ratepayers that a trip to the local MNRF office would be required to view the site plan. This appears to be contrary to making government services transparent. The perception from the public would be that MNRF is making it more difficult for the public to access this information.

Deletion of subsection 15.1(2) removes the requirement for submission of a copy of the annual report to the clerk of the local municipality. The township monitors these reports and carries out analyses to determine trends in non-compliance and to determine whether deficiencies

are being remediated. The township would request that subsection 15.1(2) not be deleted.

Interruption.

Mr. Gilles Bisson: Sorry, sorry, sorry. It sounds like this has got to be turned off.

Mr. Don MacLeod: That's okay.

The township supports the inclusion of subsection 48(1.1) by requiring every licensee to submit reports on the progressive rehabilitation and final rehabilitation of the site. We would request that the licensee be required to submit a copy of the same report to the clerk of the local municipality.

The township supports the inclusion of 71.1 and the requirement to have removal of recycled material included in annual tonnage reporting. We do have concerns about permitting, as a right, the stockpiling and processing of recycled materials. The additional truck traffic that is generated by the hauling of materials to the site and from the site must be addressed through a traffic impact study. There must also be an assessment carried out on potential contamination of stormwater and leaching of the same into the natural environment.

As an aside, the township of Zorra uses recycled asphalt on many projects and is fully supportive of its use by the municipal sector.

Now we have some general comments on the ARA and what we feel are the areas of concern that must be addressed.

During submission of an application for a pit or quarry, provincial standards, version 1.0 requires applicants to prepare a statement to provide information on different facets of the application, including the main haulage routes and proposed truck traffic to and from the site. After this, MNRF does not have any jurisdiction concerning truck traffic, regardless of whether the licensee follows the truck routes submitted as part of the application process. This is a major concern for all municipalities having aggregate operations.

When asked about policing of truck traffic, we are told that MNRF staff cannot do anything about this at all because the jurisdiction is off the site plan. It is up to local municipalities to enforce truck traffic. This is impractical, as bylaw enforcement officers are not equipped to pull over offending vehicles. The other alternative expressed by MNRF staff is to designate local rural municipal roads as non-truck roads. This, too, is impractical as rural property owners require feed trucks, milk trucks and deadstock removal trucks, and many larger operations have trucks used in their own farm operation.

There is one very easy solution for regulating truck traffic and adherence to established haul routes, and that is to require the site plan to have an appendix to show the designated haul routes and to have the same signed by affected local road authorities. This will then become enforceable by MNRF inspectors and the fine provisions will apply, as well as licence suspension or revocation. We believe this quickly and adequately addresses one of the most troubling enforcement issues surrounding the aggregate industry.

A Blueprint for Change contained requirements that water impact studies be enhanced as well as the potential for a cumulative effects study when deemed necessary. The township is of the opinion these same requirements concerning cumulative effects and further study should also be applied to:

- the natural environment;
- compatibility of extraction activities and rehabilitation plans with surrounding land uses;
- truck traffic and potential impacts on municipal and county roads and provincial highways where applicable;
- the socio-economic impacts on local municipalities;
- noise; and
- dust.

Finally, the last issue we would like to bring to the committee's attention is payment of royalties. The top 10 municipalities provide the entire province of Ontario with 34% of all aggregate materials produced in this province. In return for this, the top 10 receive \$3.3 million. This would construct less than two kilometres of urban road, or six and a half kilometres of a rural paved road—and this is for the entire province of Ontario. Therein lies the imbalance in the present levy system. Aggregate-rich municipalities are providing the very building blocks of our infrastructure system, and local taxpayers in these municipalities are bearing the brunt of costs through the degradation of local roads and the socio-economic impacts by living in proximity to the pits and quarries.

In 2016, Zorra received \$154,000 in taxes from aggregate operations as well as our royalty fee of approximately \$280,000, for a total of \$434,000. In return for supporting the economy of southwestern Ontario, Zorra will see over 200,000 tandem dump trucks using municipal roads to leave our municipality. Think about this for a moment: that means there are 550 trucks a day, 24 hours a day, 365 days a year using our roads, and for that, we get \$434,000.

We have heard that work is ongoing to ensure any new levy increase will meet the Eurig test. We feel this does not address the social and economic impacts noted above. The financial imbalance is patently unfair. Aggregate-rich municipalities must be compensated fairly, be it a tax or a royalty fee. And while this is not within the purview of this committee, another injustice is being felt by aggregate-producing municipalities, and that is the loss of property taxes paid by aggregate producers. The Municipal Property Assessment Corp. changed the valuation method, and this has a dramatic impact on municipalities.

In conclusion, we would like to thank the committee for this opportunity, and we sincerely hope that our valid concerns will be addressed in second and third reading of Bill 39. We also hope that our other issues will make their way into regulation.

As the member from Prince Edward–Hastings noted during debate of this bill on October 27, 2016, “It’s also an issue that differentiates many of our urban members from the suburban and rural members across the province. You don’t get a lot of aggregate quarries here

in downtown Toronto or Ottawa.... Each of us literally couldn’t live our modern lives without using tonnes of aggregate every year—and when I say tonnes, I mean tonnes of aggregate.” Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. MacLeod. To the NDP: Mr. Bisson.

Mr. Gilles Bisson: Two things: One is on the ability to tax the assessment by which you get revenue. You didn’t put in an actual proposal. What are you proposing how you be compensated for the removal of aggregate in your communities? What would you suggest?

Mr. Don MacLeod: A dollar figure, you mean, or the mechanism?

Mr. Gilles Bisson: I didn’t see a concrete proposal amendment. So what do you propose?

Mr. Don MacLeod: We don’t have one. We know the province has to work through the Eurig test and the differentiation between a fee and a royalty, and how that will work its way through the system. But we just know it needs to be increased.

Mr. Gilles Bisson: And you are asking for some kind of an amendment to the bill for that to happen?

Mr. Don MacLeod: Yes.

Mr. Gilles Bisson: All right. It would be helpful if I had something to work with. Maybe, if you can follow up by sending me something—

Mr. Don MacLeod: Absolutely.

Mr. Gilles Bisson: I’d appreciate it.

The other thing is in regard to having to have an appendix to designate the haul routes. Doesn’t that happen already?

Mr. Don MacLeod: It’s required as part of the submission, but it’s not part of the site plan. So any calls that we get about truck traffic, we direct to the ministry. The ministry says, “There’s nothing we can do because that is off the site plan.” Once it leaves the gate, it’s no longer under their jurisdiction.

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Mr. Gilles Bisson: So you’re saying it’s not part of the site plan currently—

Mr. Don MacLeod: It’s not, sir.

Mr. Gilles Bisson: —and doing so would just make things easier.

Mr. Don MacLeod: Far easier for everybody concerned.

Mr. Gilles Bisson: Okay. That’s good. Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Bisson. The government side: Madame Vernile.

Ms. Daiene Vernile: Thank you, Chair. Good afternoon. Thank you very much for coming to Queen’s Park today and for sharing your feedback on Bill 39. We had a chance to chat with each other recently at ROMA. Mayor Margaret Lupton, you took me aside and let me know that you are very much in favour of automated speed enforcement for Zorra, to try to slow down the speeders. We recently introduced the safer streets act, and I hope that that is what you were looking for. But I appreciate what you are here to talk about today.

You made a comment, Don, on fees—several comments on fees. As you're aware, the Ministry of Natural Resources and Forestry is currently working with municipalities, looking at modernizing the way that the fee structure works. With a change, with an increase, how would it impact your community? How would it impact Zorra?

Mr. Don MacLeod: Tremendously. We're a small municipality, so right now our infrastructure is falling behind. With 40 pits and quarries, we have a tremendous amount of truck traffic, so our ability to maintain our system is falling behind. It just makes it harder and harder that we have to concentrate on the truck routes because they degrade quicker than just the regular rural routes. We would be able to maintain what we have to a much higher standard than what we presently have.

Ms. Daiene Vernile: So, clearly, this is something you're in favour of.

Mr. Don MacLeod: Absolutely.

Ms. Margaret Lupton: If I may, in Zorra township, we are blessed with huge amounts of aggregates. Sometimes we say we're cursed with it because of all the problems that it causes for the residents. Really, they're not seeing any positives: They get the dust and the noise and the truck traffic; they see their roads being worn down, which they have to pay to repair. We can't really offer them anything that seems positive. We're supplying material for everybody else's economic growth at the expense of our own. That is why we're looking, if we can get an increase in the fees—there is a program in place; it's just a matter of increasing it. It would mean a tremendous improvement for the residents of rural areas. We really desperately need more money for what's happening to us, just to be fair. We're not looking to get rich; we want even just the money to repair the roads that are damaged by all this traffic.

Ms. Daiene Vernile: So clearly it's an asset for you.

Ms. Margaret Lupton: Oh, absolutely.

Ms. Daiene Vernile: Thank you very much.

The Chair (Mr. Shafiq Qaadri): Thank you, Madame Vernile. To Mr. Hardeman.

Mr. Ernie Hardeman: Thank you very much for your presentation. It's good to see the great people from Oxford here making a presentation.

You were here earlier for the presentation from AMO, and, again, they talked about how they supported this legislation, but a lot seems to be in regulation. In fact, it's a permissive piece of legislation that does—most of the work is going to be done by regulation.

You speak to that too. I'm just going to read one line here: "Throughout the legislation there are many references to regulations. The Blueprint for Change also listed off key proposed changes that will also be dealt with by regulation." Do you have a concern that, at the end of the day, the regulation doesn't get that same type of six-year consultation to get it right and, all of a sudden, it's just written in and that this is the last time you'll hear about how it's going to be done?

Mr. Don MacLeod: Yes, that's a concern that we have. So much work has gone into this, and the legisla-

tion itself is very scant. It leaves lots of room for interpretation when regulations are created. Again, those can be changed by the stroke of a pen. So we look forward to constructive consultation with MNRF on the regulations.

Mr. Ernie Hardeman: There was one other place where you said that the previous legislation says that it must go to the clerk, and that has now been removed, and you hope it will be put back by regulation. Do you have any idea why they would have taken it out so they could put it back in with regulation?

Mr. Don MacLeod: No idea.

Mr. Ernie Hardeman: The other thing I wanted to just ask you is a question or your opinion on—we heard in the other presentation, too, about the transportation of the goods that are coming back and forth. You get paid the royalties on that which comes out of that pit, but if the crusher is in one pit and the other pit is in another municipality, you would get nothing for that. Have you got any idea how you could regulate that trucks carrying gravel would pay a royalty provided they came from your municipality? How would you make that work other than licensing it by the pit it came out of?

Mr. Don MacLeod: That is something that we've talked about with MNRF staff, about how they're going to construct the new royalty fee, whether there should be some consideration given to adjacent municipalities that also have haul routes. In our instance, Thames Centre is the next eastern municipality that leads into the city of London. A great number of trucks travel their roads on a daily basis, so they wouldn't receive compensation. It comes down to the test of fairness whether they should be receiving any money on this or not.

Mr. Ernie Hardeman: Last and not least, who sets the royalties? Is that the Minister of Finance, or the Minister of Natural Resources?

Mr. Don MacLeod: That's a good question. I'm not sure.

Mr. Ernie Hardeman: I'm just wondering whether the actual amount of the royalty is in this legislation, or if that's through a budget bill by the Minister of Finance.

Mr. Don MacLeod: I believe it's in regulation.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Hardeman, and thanks to Mayor Lupton, Councillor Keasey and CAO MacLeod for your representation on behalf of the township of Zorra.

TOP AGGREGATE PRODUCING MUNICIPALITIES OF ONTARIO

The Chair (Mr. Shafiq Qaadri): We invite our next presenter to please come forward: Mr. Lever, representing the Top Aggregate Producing Municipalities of Ontario. Welcome. Please be seated. You've seen the drill. I invite you to please begin now.

Mr. Dennis Lever: And "drill" indeed it is. Thank you very much, Mr. Chair. It's my pleasure to be here before the committee today. My name is Dennis Lever. I'm the chair of the Top Aggregate Producing Municipal-

ities of Ontario, the mayor of township of Puslinch and the warden of Wellington county.

TAPMO was formed by a group of mayors in 2011, shortly after the 2010 election. We had common aggregate challenges, particularly the levy at that time. You can see how long we've been having these discussions.

In 2012, TAPMO was formed. It was expanded out to 40 municipalities, all of which were shipping more than one million tonnes of aggregate per year. At that time, we also included the OSSGA executive director as a non-voting member. We believed that working together toward solutions was the best avenue to follow. As a result of some of these early discussions, we formed a joint levy committee.

At a recent TAPMO meeting, Ministry of Natural Resources reps described changes under four broad categories in this bill. The first one was updated and equalized fees and royalties. I'm pleased to see that there was an issue with private versus crown land, and that it has been addressed. There was also an issue with mining leases, and that has also been addressed in this bill. My concern is that the levy payments to municipalities are the big unknown, as you've already heard.

The second broad category was improved information and participation. Significant amendments to any aggregate site require consultation. At yesterday's council meeting, we received a document from the Ministry of Natural Resources, which is in the back of the package that you've been handed here today, with a notice that a site has had its tonnage limit increased from 400,000 tonnes to 1.2 million tonnes.

There was no notification to the municipality that this was coming. We simply got this advice letter that it had been accomplished. There was no consultation. I don't know whether traffic was taken into case—there are three times as many vehicles to ship that amount of aggregate—or whether noise was considered or anything else.

Under enhanced environmental accountability: We must address legacy or long-dormant sites. They were approved decades ago. There was a lack of environmental regulations when those sites were put in place. They must adhere to today's standards. The fact that a site can sit there dormant for decades and then suddenly start up again without any consideration of current standards is clearly unacceptable.

The fixed costs associated with those sites were recovered long ago. While I understand the argument and concern about producers with current sites and additional studies, these situations, where we've had long-dormant sites or legacy sites, need to be exempted from that, and the studies need to be included.

Stronger oversight: As of last week, according to the Pits and Quarries Online site, there are 6,166 aggregate sites in the province, and we have about 35 inspectors. In the bill, there's an item about strengthening enforcement and fines, but there simply isn't the manpower to carry out the job that's required now. Both the industry and the municipalities are looking for more enforcement and inspection. This needs to be a fully funded program from the levy.

Under regulations, this is the big concern we've had, and you've heard it from other presenters today and I'm sure you did at the last session as well: Many items are being moved from the act into regulations. I understand the ease of future changes, and I support this approach.

The concern is that outcomes are unknown. We need to have significant consultation, and it is expected on the proposed regulations. Prior to the blueprint, there was multi-stakeholder, inclusive consultation, and it was an excellent program run by the ministry. Something similar when we get to the regulations needs to come as well.

1440

I talked earlier about the TAPMO/OSSGA Levy Committee that was formed in 2012. We had seven key outcomes from that ARA review that we saw as mandatory issues.

The levy must be charged on all products produced in Ontario. I see that movement in the act where it's addressing crown land, so I'm thankful for that.

The money to municipalities must be used for infrastructure only. All municipalities agreed to that. We have a huge infrastructure deficit. We would like to see a program in place much like the gas tax program that's currently administered. It's simple, it's straightforward, and it guarantees results.

Exports out of the province and imports must be addressed. This is a key issue in some border municipalities.

Discrepancies between the Mining Act and the ARA must be resolved. Again, I'm pleased with what I see in the act surrounding this.

More funding for the MAAP program in TOARC is required. I also sit on the TOARC board. They do great work, but with the funding they currently have, it's going to take too long to complete the job.

The increased levy must result in more enforcement and staffing.

The levy can no longer be directed to general revenues.

Inspection and enforcement must have stable funding at a level that provides for effectiveness.

On the next page, you'll see the proposal that the joint committee had for a new levy. You'll see what the current amount is. The lower tiers currently get six cents, and that would go to 30 cents a tonne. The upper-tier municipalities would go from a penny and a half to 10 cents. The MAAP program would go from half a cent to five cents. While it appears as though general revenues for the MNR are going down, because of the increased sites that would be included, that would actually be about the same revenue. And then we saw something like a delegated administrative authority, a separate entity, to run the inspection and enforcement program. That's the only way we see it properly funded without being subject to other government pressures for cost reductions.

Then we ran into a little hiccup with the next slide, something called the Eurig compliance. We weren't aware of it when the committee was formed. MNRF is currently now doing extensive work with consultants to

determine the actual impact of aggregate shipping on roads and bridges. I expect that this is going to be a very complex calculation. It's going to be difficult to administer. There is going to be little, if any, transparency, and it may, in fact, result in lower payments to municipalities. It may be time to abandon the fee structure and establish this as a tax. Please, no more punishing municipalities. When I hear about cumulative impacts of adjacent aggregate sites, I also think, from a municipal perspective, that we look at the cumulative impacts of various legislation and regulations that they have.

MPAC is another issue that you've already heard about. While I understand it's not related to this ARA review, it is going to cause a significant impact on municipalities. Aggregate is not taxable, currently, for property tax purposes. Legacy appeals from 2009-16 resulted in dramatic refunds by municipalities to producers. New methodology was established by MPAC for the 2017-20 cycle. It results in a value being established of land acquisition costs and site preparation costs.

This also resulted in a significant loss of tax revenue. In fact, a 2,600-square-foot home on one acre in my township of Puslinch is paying the same tax as a 100-acre operating aggregate site. Wellington county is in the process of appealing these assessments. I could not and will not recommend any large impact approvals until this is resolved.

You'll also see in the back of the document that I presented you with today a copy of a typical invoice for aggregate. At the bottom, you'll note that the HST is collected. So the current situation is that no municipal tax can be collected on aggregate, but it's okay for the province to collect its portion, and forward on the portion to the federal government as well. How does one rationalize that?

That's my presentation. I would be pleased to answer any questions.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Lever. We'll begin with the government side: Ms. Vernile.

Ms. Daiene Vernile: Thank you very much, Dennis, for coming and offering us this very succinct presentation. It's very illuminating.

You know that Bill 39 is going to be the first step toward updating the fees and the royalties that we currently have in Ontario. The ministry is currently in conversation with municipalities, looking at what it is you're looking for in terms of modernizing the fees. I put this question to the delegates before you in Zorra township, and I'll ask you as well: If you were to get more fees, how is that going to impact your community and Wellington and Puslinch?

Mr. Dennis Lever: The municipalities that produce aggregate, like other municipalities in the province, all have enormous infrastructure deficits. We committed that any increase in fees would all go back to roads and bridges. That was a joint commitment that was made by municipalities, along with OSSGA, when we put forth our issues list.

Ms. Daiene Vernile: Thank you very much.

The Chair (Mr. Shafiq Qaadri): To the PC side: Mr. MacLaren.

Mr. Jack MacLaren: I assume your committee has talked to the industry and MNR people in working out a levy. Is that how you came up with 54 cents?

Mr. Dennis Lever: The levy committee was the Ontario Stone, Sand and Gravel Association and TAPMO members, who worked together for almost two years to come up with that joint issues list. That's how we established that value for the levy, which comes out into the mid-50 cents with the breakdown.

Mr. Jack MacLaren: And that would satisfy municipalities, or the big producers?

Mr. Dennis Lever: It would go a long way to satisfying municipalities. It can't be something that is frozen in time, though. It would have to escalate as costs escalate in the future.

Mr. Jack MacLaren: Is the MNRF accepting of that number?

Mr. Dennis Lever: They were, up until the point we found out about the Eurig hiccup, I guess.

Mr. Jack MacLaren: Okay. Has the MNR got a solution for that?

Mr. Dennis Lever: They're doing this research work now in order to meet the Eurig compliance test, to examine exactly what the impact is of aggregate shipping on the infrastructure, and then the fees will have to tie back to that. My concern is, the fees could go down.

Mr. Jack MacLaren: It's pretty clear from you and other municipalities that the host municipalities are having a tough time. They need more money. I think that's pretty clear.

Now, on MPAC: What do we do about MPAC?

Mr. Dennis Lever: The county of Wellington is appealing to the ARB, and we will follow that on from there.

I guess I'm making that presentation about MPAC because of the cumulative impact of these various parts of legislation regarding aggregate sites on the host municipalities. We can't look at one, just the AR act, in isolation. All the other things need to be considered.

Mr. Jack MacLaren: We hear—not just to do with aggregates, but MPAC in general—right across the province the word “unfair.” Perhaps this is unfair. Would it be better if assessment responsibilities were in the hands of the municipalities?

Mr. Dennis Lever: The municipalities are currently paying for MPAC right now. I'm not sure every municipality could handle that. Half of the municipalities in this province are smaller than Puslinch, and we have 7,200 residents. Many municipalities would not be able to take that on themselves. Some of the larger ones could.

Mr. Jack MacLaren: But if there was a way you had more control over the management of MPAC assessments, that might make it more fair.

Mr. Dennis Lever: I think, certainly, if we had more input into the methodology that is used for these

assessments. If you get to an end result that clearly looks unfair, something is wrong with the methodology.

Mr. Jack MacLaren: It would seem to me that that would be a big one to have a look at, for some pretty major change.

Mr. Dennis Lever: Indeed, that will probably be part of our appeal process.

Mr. Jack MacLaren: Thank you.

The Chair (Mr. Shafiq Qaadri): Mr. Bisson.

Mr. Gilles Bisson: Thank you. Actually, quite a well-done presentation—to the point. You've actually answered the question that I had asked the previous community, so you're on hold. I can use what's in here.

I have to ask you this question you might think a little bit strange. To what degree does the industry have the ability to pay, in your estimation, if we were to do what you're suggesting?

Mr. Dennis Lever: To pay the fees that are there?

Mr. Gilles Bisson: Yes, that you're proposing.

Mr. Dennis Lever: I did a calculation some years ago when we were originally planning this. The impact on a typical two-storey, four-bedroom house in the greater Toronto area would be between \$100 and \$150. It isn't the industry that's paying it; they're passing this charge on to the end-user who is buying the aggregate. While I've heard a concern about how this will impact the economy, I don't think anyone would notice a \$150 change in the price of a house in Toronto.

Mr. Gilles Bisson: Just walk me through it. On one load, 18 yards or whatever it is, what would it be? What would be the—

Mr. Dennis Lever: The total charge is about 50 cents a tonne.

Mr. Gilles Bisson: Okay. Gotcha. Second thing: That's not included in the bill. I take it that it's going to be dealt with in the regulation, right?

Mr. Dennis Lever: Correct.

Mr. Gilles Bisson: My concern with what you've raised in this that is there is far too much left to regulation. Do you have any confidence that the government is actually going to address this royalty issue in the regulation?

Mr. Dennis Lever: I think I have to have confidence in the government in general, but what I want to see, because it is a big unknown at this point in time, is significant consultation come about as a result of those regulations.

The blueprint document is an excellent document. It was derived out of a very-well-run consultation process. I'd like to see something similar to that process for the regulations we're introducing.

Mr. Gilles Bisson: I come from a community where quarries are a lot deeper underground; they're called gold mines and copper mines. But I sympathize, because our roads are banged up to everything from the haulage, because we're hauling materials from various mines in and across the city to get to the mills to be processed. There is no mechanism for municipalities to be able to absorb that. For example, for what is a provincial high-

way—Highway 101, which is Algonquin because it was downloaded to the municipality by the Tories—we're talking \$72 million to upgrade that road, just to get rid of the potholes.

1450

There needs to be something. I think what you're hitting on is something that actually may be also in the Mining Act.

Mr. Dennis Lever: Expanded out into the mining.

Mr. Gilles Bisson: Yes, that was my question. Would you support that kind of—

Mr. Dennis Lever: I would, yes.

Mr. Gilles Bisson: Okay. Thank you very much. It was very helpful.

The Chair (Mr. Shafiq Qaadri): Thank you, Monsieur Bisson, and thanks to you, Mr. Lever, for your deputation on behalf of TAPMO.

LAFARGE CANADA

The Chair (Mr. Shafiq Qaadri): I'd now invite our next presenters to please come forward from Lafarge Canada: Mr. McGuckin, director of land, and Xavier—and we're having a debate on the last name; either it's Guesu or Guesnu.

Mr. Xavier Guesnu: Guesnu.

Le Président (M. Shafiq Qaadri): Guesnu. Français?

M. Xavier Guesnu: Français. Yes.

Le Président (M. Shafiq Qaadri): D'accord. Bienvenue, mon ami. Asseyez-vous. Vous avez vu le protocole ici. Commencez avec vos 10 minutes introductoires maintenant.

M. Gilles Bisson: Vous avez le droit de présenter en français, si vous voulez.

Mr. Xavier Guesnu: No, no, in English. That's fine.

M. Gilles Bisson: Mais on est correct en français—

M. Xavier Guesnu: On peut les faire en français, les questions, si vous voulez.

Le Président (M. Shafiq Qaadri): Votre temps a commencé.

Mr. Xavier Guesnu: Okay. Mr. Chair and committee members, thank you for the opportunity to speak with you today to present our views on Bill 39, the ARA and mining modernization act. My name is Xavier Guesnu. I am the vice-president of aggregates for Lafarge Canada Inc. With me today is Chris McGuckin, our land director.

Lafarge is the largest producer in Ontario of aggregates, operating more than 160 sites, and we have made substantial investment in the province. We currently employ more than 1,500 people at our different businesses in Ontario, and we are very actively engaged with the local communities. We are committed to sustainable business practices.

Aggregates, as you know, are a key component of Ontario's economic growth and the renewal of its infrastructure, which is under way. The government has announced a plan to invest \$160 billion, focused on building and revitalizing critical infrastructure, such as roads, bridges, public transit and schools. Over 110,000 jobs, on

average, each year will be created through this investment. A ready supply of high-quality aggregates close to the market is essential to meet this demand, while having the least adverse impact to the environment and the economy.

Lafarge continues to take a strong interest in the efforts of the MNRF to modernize and strengthen the Aggregate Resources Act. Policies that protect an essential cornerstone of the economic engine of Ontario are key to continued growth and investment in Ontario. We welcome the opportunity to collaborate with the province and other stakeholders to improve legislation and the aggregates program in Ontario.

Our purpose today is to share some thoughts and comments on Bill 39 and the key issues facing our industry.

Our overarching recommendation is that Bill 39, as currently drafted, will rely heavily on the related regulations, standards and policies that are yet to be released. This makes it very difficult to understand the full effect and implication of the proposed changes, which causes uncertainty.

Our first recommendation is that the approval of Bill 39 is to be deferred until the regulations, standards and policies have been made available and reviewed to ensure that the full ARA amendment package is integrated, informed and consistent.

A second comment we have with Bill 39 is around business certainty and the security of investment in licensed supply of aggregates. Aggregate licence applications require significant capital investment—dozens of millions of dollars—and time to reach a decision—in some cases, over 10 years. Lafarge relies on the availability of licensed reserves to operate and make decisions on further capital investments.

The provincial policy statement is clear that aggregate resources shall be made available as close to market as possible and that existing licensed sites are protected for long-term use. Section 62.4 proposes to give the minister the authority to require new studies on existing licences that could undermine the security of licensed supply and potentially cause a significant financial loss and create a major disincentive for doing business in Ontario.

We recommend the removal of section 62.4 from Bill 39. There are numerous legislative and regulatory mechanisms already in place to adequately protect the environment. In the alternative and at a minimum, the minister's ability to request new studies should be confined to those instances where there is a proven scientific basis for concern. An appeal right in favour of a licensee should also be included.

It's not clear whether Bill 39 will be applied retroactively. Given the effort and time frame that aggregate approval processes take, we recommend that Bill 39 not apply retroactively to licence or licence-amendment applications or other ARA processes that are currently in progress.

The circular economy is a key business model at Lafarge that supports the use of recycled aggregate and

the management of excess soil. The province's Resource Recovery and Circular Economy Act aims to minimize the use of raw materials and to maximize the useful life of materials and other resources through recovery. Lafarge encourages and supports legislation that creates opportunities for recycling aggregates.

Bill 39 lacks detail around the recycling of aggregates and falls short of the standing committee's recommendations that recycled aggregates should be used to meet the growing demand in Ontario. The standing committee made nine recommendations encouraging the use of recycled aggregates. Bill 39 contains only one reference to recycled aggregate, by including it in the calculation of maximum annual tonnage limits. This single reference is a disincentive for encouraging the use of recycled aggregates.

We recommend that Bill 39 be revised to contain stronger language and detail that will encourage the use of recycled aggregate.

A circular economy should also deal with excess soil. Excess soil management is a major challenge confronting the province today. Strong policies on excess soil management will provide an opportunity to capture this material to enhance progressive rehabilitation in pits and quarries.

We recommend that opportunities for managing excess soil be incorporated into Bill 39 or provide greater clarity through the development of the standards and the regulations.

Lafarge continues to support an increase in the aggregates levy directed specifically toward municipal infrastructure improvements and an enhanced MNRF aggregate program. As regulations are developed, new fees must be appropriately defined to properly support the MNRF aggregate program proposed in Bill 39. Increases to the levy will address the concerns raised by municipalities and stakeholders to support upgrades to infrastructure. Exemptions to cement plant quarries should be considered, as material used for cement manufacturing is consumed on site and generally doesn't impact municipal infrastructure, based on transportation methods. As significant percentages of cement produced in Ontario are exported to the US, inclusion in the levy would put cement production in Ontario at a disadvantage on a global market.

We recommend that the MNRF, along with Lafarge, other aggregate producers and stakeholders, work collaboratively to determine an appropriate levy, as well as the governance of this funding.

In closing, we appreciate the opportunity to share some of our thoughts on Bill 39. Continued economic growth in Ontario will result in an increase in the demand for high-quality, close-to-market aggregates. We want to ensure that Ontario has a long-term and sustainable supply of aggregates that will meet the current and future needs of Ontario.

For the benefit of the committee members and staff, I will leave you a copy of Lafarge's December 2016 submission to the MNRF, which includes all our comments

and recommendations. Thank you for this opportunity, and I am happy to answer your questions.

Le Président (M. Shafiq Qaadri): Merci, monsieur Guesnu.

On commence avec M. Bisson. Trois minutes.

M. Gilles Bisson: Bonjour, mon ami. Comment ça va?

M. Xavier Guesnu: Très bien.

M. Gilles Bisson: Excellent.

On page 4, recommendation 3, “should not apply” to those—what you’re essentially saying is that if I’m in the process now, don’t make me restart the process. Is that what you are saying?

Mr. Xavier Guesnu: If it’s not to add additional studies right away, yes.

Mr. Gilles Bisson: Okay, let me try it in a different way. If your pit is already licensed, it’s licensed. What you’re arguing about is, if I’m in the process in order to license something and I’m halfway through the process, don’t come and retroactively apply this legislation. That is the argument.

1500

Mr. Xavier Guesnu: Yes.

Mr. Gilles Bisson: Just to be clear. And on the issue that I raised earlier in regard to fees—your thoughts? The 50 cents per tonne that we—

Mr. Xavier Guesnu: Yes, as we said, we are supportive of the increase of the—

Mr. Gilles Bisson: But specifically the 50 cents you’re fine with?

Mr. Xavier Guesnu: Yes.

Mr. Gilles Bisson: Okay; that’s all I wanted. Thank you.

The Chair (Mr. Shafiq Qaadri): Merci, M. Bisson. To the government side: Mr. Colle.

Mr. Mike Colle: Merci, monsieur le Président. It was a very thorough, well-researched contribution to this committee. I appreciate the people behind the scenes at Lafarge who put this together. They’re certainly well researched. There are a number of different things that I just want to quickly go over.

On your second page, you say that there should be “the removal of section 62.4 from Bill 39. There are numerous legislative and regulatory mechanisms already in place to adequately protect the environment.”

As you know, we have a lot of presentations here. I was on the standing committee that travelled the province. We heard a lot of people say that there aren’t enough environmental protections in place; we need more of those. We had Environmental Defence Canada. They all came here the other day and they said they’re not going to support the bill because there’s not enough environmental protection. How do you respond to that?

Mr. Chris McGuckin: We feel that there are many in place right now. Any time an application for a new aggregate site comes forward, there are many, many different pieces of legislation that we have to deal with.

We have to go forward. In order to operate our sites and seek environmental compliance approvals from the Ministry of Environment, we’re dealing with things like

the Endangered Species Act. We feel, as an industry, that we are already dealing with many pieces of legislation and regulation that address those types of concerns.

Mr. Mike Colle: Yes, and we heard on the committee that it can take up to 10 or 12 years to get an approval. The call was to streamline the approval as much as possible because time is money and so forth.

The other thing: This has been a pet peeve of mine for the last—we’ve been dealing with this for 11 years, by the way. The talk about recycling: I keep asking our friends in the municipal sector—I wasn’t here for AMO; I don’t think that anybody from AMO is here. I keep asking our municipal partners, “Why do you refuse to use recycled aggregates?”

What have they told you on why municipal engineers etc. basically refuse to use recycled aggregates? When MTO uses it on the 401 and all of their highways, they say, “Oh, no. MTO has different standards. We don’t have the expertise, so we’re not going to use recycled aggregates.” Can you explain that?

Mr. Xavier Guesnu: Yes. So first of all, the difference is—as you say, MTO uses it, so municipalities are very advanced on that. For instance, in the west GTA, Mississauga uses that. Other municipalities are much more skeptical on the use of recycling, unfortunately.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Colle. To the PC side: Mr. Miller.

Mr. Norm Miller: Thank you for your presentation. Following up on the recycled material, seeing as we were just talking about that, you mentioned that, in this bill, basically there is only one mention of recycled material and it’s actually a disincentive by counting recycled material as part of a licence of an operator. You recommend that Bill 39 be revised to have stronger language and detail. What would you like to see to encourage—obviously, you don’t want that recycled material carried in the licence. The municipalities were telling us that they’d like it counted for the levy part of it so that the roads are maintained, but that the operators don’t want to count it because it cuts into what they can actually mine, or dig up, in a year. What recommendations do you have for that?

Mr. Chris McGuckin: I think we’d like to see further incentives. Incentivize recycling so that more of it will get done. Perhaps it’s the opposite: Perhaps you can produce more, above your maximum tonnage limit, if you’re recycling more.

We also see constraints to even getting approval to be able to do aggregate recycling in some of our facilities. It makes sense on a backhaul issue, when we’re supplying aggregates to a job, that that material is coming back to the pit to be recycled—that sort of enabling legislation that would enable some of that to be encouraged, to facilitate that happening more easily.

Mr. Xavier Guesnu: We are not saying that recycling should be at all sites, but at the right site, as Chris is mentioning, the one which, where it makes sense, from a backhaul perspective, from a logistics standpoint, it makes a lot of sense for all the impact on the environment.

Mr. Norm Miller: In your business, though, transportation is one of the biggest expenses, so obviously from your business perspective you want to be as close to where the end product is going, where you do the processing.

You also have recommendations with regard to excess soil. Can you give us some more information about that? You said, "We recommend that opportunities for managing excess soil be incorporated into Bill 39."

Mr. Chris McGuckin: This is an issue that is facing municipalities, as we heard earlier today, and impacting MNRF and a lot of aggregate producers. We know that this material is going to all kinds of places, including pits and quarries, and we would like to see an opportunity here to engage in a further discussion around excess soil management in Ontario and to have clear legislation, regulations and policies that will help guide that so that it's done in an environmentally responsible way.

Mr. Norm Miller: So would this soil be topsoil?

Mr. Chris McGuckin: It could be, in some cases, yes.

Mr. Norm Miller: So there would be a value to it, I would assume.

Mr. Chris McGuckin: It could be coming off farm fields in some situations that would be developed.

Mr. Norm Miller: On your point—I think Mr. Bisson has made it several times—that you think we should vote on this after we see the regulations: Unfortunately, that's not the way it works—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller.

Thanks to you, Mr. Guesnu and Mr. McGuckin, for your deputation on behalf of Lafarge Canada.

R.W. TOMLINSON LTD.

The Chair (Mr. Shafiq Qaadri): Would our next presenters please come forward, from R.W. Tomlinson Ltd.: Mr. Parkin, partner, and Mr. Bellinger, environmental compliance coordinator?

Gentlemen, welcome. You've seen the protocol. Please be seated. Please do introduce yourselves and begin now.

Mr. Craig Bellinger: Hi. My name is Craig Bellinger. I work with R.W. Tomlinson. I'm just going to give you a little background on the company. The company was founded in 1952 with one single-axle dump truck. We have approximately 1,400 employees in Ontario. We're a member of OSSGA, the Ontario Stone, Sand and Gravel Association. The company is now a predominant player in the quarry, construction, trucking, ready-mix, land development and environmental industries. Tomlinson has been producing quality aggregate over 35 years through 20 licensed pits and quarries situated throughout Ontario. Tomlinson is also undergoing three ARA licence applications currently and has plans to license five additional sites in Ontario in the next five to 10 years.

Tomlinson continues to search for and purchase non-operational or idle pits and quarries to help drive economics and ensure that natural resources are used appropriately. The construction industry relies on our high-

quality aggregate, which is why our products are used mainly in ready-mix, concrete, pre-cast concrete, asphalt, road building and construction.

Tomlinson supports updating the ARA, but out of the many changes, there are a few issues that Tomlinson has concerns with.

Additional requirements/duplication of the licensing process is one. A streamlined application process is two. Applying new regulations to existing sites is number three. Peer reviews when MNR and MOE already have skilled reviewers on staff is number four. Number five: increased fees/royalties as they impact out-of-province or out-of-country business, and also blending material from other aggregate sites.

As a major stakeholder in the ARA, any significant change to the ARA can cause detrimental effects to our business and the future growth of the use of aggregate in Ontario and close to markets.

Mr. James Parkin: Good afternoon. My name is James Parkin. I'm a professional planner. Our consulting company is MHBC planning. The focus of my practice is aggregate licensing and policy. I'm not looking for anybody's sympathy here, but it's really true to say that for 30 years of working life I've dealt with the Aggregate Resources Act legislation every day of that working life. I worked for MNR in a previous life inspecting pits, and at the Whitney Block working on the ARA legislation when it was first put into effect.

As a starting point, the Aggregate Resources Act is strong, progressive environmental legislation. I support this review. It's good to have the legislation brought up to date, and I would commend MNR on the work that they've done to date, especially the blueprint document.

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I would start, though, with one thing that's missing. One of the main shortfalls of the bill is the lack of provisions that would improve a difficult, time-consuming and confusing application process. It was a major area of concern that was identified at the standing committee hearings. The ARA review standing committee wanted to see improvements that would simplify and standardize the application process. Let's acknowledge that it's complicated and it involves a lot of other pieces of legislation, and you only have this bill before you.

I'll make two simple recommendations. The first provision that could be in the bill to reduce duplication is to ensure that the provincial standards apply across the board, across the province, and that there are not additional standards put in place through municipal official plans. The approach would be similar to what you've done with your provincial plans. The province essentially said, "We're going to raise the bar in the Oak Ridges moraine and the greenbelt, but you're going to have certainty that that's the bar and we're going to say that municipal documents can't be more restrictive." This would be a similar approach. It would be something that should be done through legislation. It would help a lot with harmonizing the application process.

A second improvement would be to include the authority to collect fees where there are appellants on

licence applications. Right now the company that's applying is asked to pay if somebody wants to oppose. The fee amount is not significant, but the point is that it will help streamline the process because it will reduce objectors who aren't serious about following through with their objections to the Ontario Municipal Board.

Peer review provisions are a related concern in the bill. That's another area where we have to make sure that there is not duplication and delay.

On the issue of protecting existing licensed supplies, you've heard from industry representatives about the security of their investment. I'm just coming at this from a little bit of a different perspective of public interest. The public interest—the first question is: Is Ontario a safe place for these companies to invest? They need that security so they can keep making investments in this province.

Secondly, it's the government that wants to build the infrastructure, and the government has an interest in having this material available close to market. Ontario is not replacing its depleted close-to-market supply quickly enough. For the GTA area, you're using aggregate three times faster than you're replacing it through new licences, and a large portion of the licensed reserve that's to build this infrastructure is in old licences. If it's lost due to retroactive re-evaluation, then we're going to be hauling aggregate from further away and we're going to be paying more for it and emitting more greenhouse gases.

Yes, land use changes around pits and quarries, but the principle for planning is that licensed reserves are protected. You can only extract where that deposit is. The deposits are protected and the operation should be protected. So if somebody has built a new land use or moved in, they've done it taking into account that the extraction is there. They've done it knowingly, or they haven't done their homework. So don't reverse the onus and punish the pit operator by making the pit operator do new studies where other land uses have been approved.

A provision of the bill that needs more thought is this issue of aggregate removed from the site. The way the bill is written now, they're going to start counting anything that leaves a property towards the annual limit. Right now it's only aggregate extracted that is counted. The issue is where you have—you often have groups of licences together. Tomlinson has a quarry in Ottawa where the material is extracted on one licence, it's hauled through another licence and it's processed and stockpiled on a different licensed area. The way the bill is written, it's going to count towards the tonnage limit every time it crosses a licence boundary. It's really a complicated solution that's looking for a problem. There's no conceivable benefit to this. The trucks on the road that deliver the aggregate will be what the market requires. This double-counting is really going to be an accounting nightmare, it's going to be a government-regulating nightmare, and it's really not solving any issues. The changes that have been recommended by OSSGA in their submission would address that.

On licence fees: There is widespread consensus that you've heard today, I think, that the fees need to be

increased for municipal remuneration and to properly fund MNR's aggregate program.

One of the agreed conditions is that the small amount of product that ships out of province is not put at a competitive disadvantage. Tomlinson has a trap rock quarry in Sault Ste. Marie. They ship by boat, and they ship to the United States.

The Acting Chair (Mr. Bob Delaney): Gentlemen, you have a little less than a minute.

Mr. James Parkin: If they were subject to significantly increased fees, they're going to be at a competitive disadvantage in the out-of-province market. There's support for increased fees, but that's subject to an exemption for that product shipped out of province.

We've left you copies of the submissions on Bill 39 and the Blueprint for Change. Peer reviews, enforcement, recycling: They're all touched on there. We would be pleased to answer any questions.

The Acting Chair (Mr. Bob Delaney): Okay. We'll begin with the government side: Mr. Colle.

Mr. Mike Colle: Thank you, Mr. Parkin, for the presentation. I'm sorry, I missed your partner's—Mr.—

Mr. James Parkin: Bellinger.

Mr. Mike Colle: Bellinger. Okay. Anyway, an excellent, thoughtful presentation. There are many questions I have. I will follow up with staff on a number of the ideas you came forward with. I thought they were very, very sound, and I myself support a number of them that you've made.

One question I have: We had travelled to the giant pit just south of Ottawa when we were on the standing committee, and we went to another one around Alexandria. There is a difference. It seems that in that part of eastern Ontario, there isn't the conflict all the time with aggregates and municipalities and ratepayers. Why is that? Why is it different? It seems to have been different. You mentioned, I think, here that you've had a very copacetic relationship in the Ottawa area.

Mr. James Parkin: It has worked pretty well in Ottawa. We've worked with Tomlinson on licensing sites there that have gone pretty smoothly—much less than the 10-year average. I don't know why that is.

I worked in Ottawa as well, and I was always looking for why it was more sensible or easier there, but I can't put my finger on it.

Mr. Gilles Bisson: It's the aura of Parliament Hill.

Mr. Mike Colle: Yes, yes. Anyway, the next thing is this complex issue about counting what leaves the site—I think that's complicated—along with the mixes that go into aggregates that may be counted in the tonnage. That's another thing I think our staff has been made aware of and I'll make sure they follow up on—not making it more onerous with these changes coming about.

The other thing you mentioned: Government wants to build infrastructure. I think what I found missing in this piece—and I've discussed it with some of my colleagues here—is that the public wants new schools, new hospitals, new roads; they want their swimming pools; they want their stone houses. They demand the infrastructure, but then you tell them, "Why have you got an anti-quarry

sign on your front lawn? Where do you think your house's stone came from? Where did your swimming pool's cement come from? Your new sidewalk?"

I think one piece that's missing is if the aggregate industry and all the players and the companies maybe do a bit of public outreach, a bit of public education, with simple ads that say, "Hey, listen: You want your new school? Well, here's where it comes from, folks. It's not produced in that truck that comes to the site."

Mr. James Parkin: The industry association is doing a lot of that. Whether they can change the perspective of the person who still has to put up with the pit or quarry, I'm not sure.

Mr. Mike Colle: It's not so much the pit or quarry people; it's the people in the cities who are getting all their condos and the roads and hospitals who never appreciate the fact that this comes from aggregate pits and quarries—

The Acting Chair (Mr. Bob Delaney): Thank you, gentlemen. To the PC side: Mr. Miller.

Mr. Norm Miller: Thank you for your presentation. You said that the application process to have a pit or quarry is too complicated. Essentially you're saying that we should simplify it. I gather you think there's too much red tape involved, and we could simplify and standardize it. What would you recommend that still maintains protection for the environment? I'm sure there would be people who would think that's not a good idea, who are maybe opposed to new quarries. What specific recommendations—

Mr. James Parkin: That the provincial standard for application requirements and tests to be met is the standard across the board; that what's good for Puslinch is good for Ottawa is good for Caledon, and that there are not additional layers on top of that. Provide strong protection through the provincial legislation, and make that the standard across the board.

Mr. Norm Miller: I got that point, that you didn't think municipalities should be able to layer on other restrictions, but it was the actual application process you said in your presentation should be simplified?

Mr. James Parkin: That's the biggest part of the application process: trying to meet the overlapping requirements and duplication in standards of agencies looking at the same thing.

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Mr. Norm Miller: And you also brought up the case of Sault Ste. Marie, where they would be shipping aggregate by boat to the States, I assume. So what's the case now with operations like that? Do they pay the levy on the aggregate that leaves? How does that work?

Mr. Craig Bellinger: Yes. Right now, we pay the 11-and-a-half-cent levy, but we don't use the municipal roads or anything like that.

Mr. Norm Miller: So you're not actually using—

Mr. Craig Bellinger: We're paying into something that—the municipality or MNR isn't getting any value out of it.

Mr. Norm Miller: Are there many operations like this around the province that would be in similar situations?

Mr. Craig Bellinger: Yes. Aggregates also get shipped out of province as well, right?

Mr. James Parkin: The vast majority is used in the province. It's the exception that—there's a very small amount that leaves the province.

Mr. Norm Miller: So the exception, I assume, should be that, if you're not using the roads, which the levy is intended to support, and you're shipping out of province or country, you should just have an exemption.

Mr. James Parkin: Yes.

Mr. Norm Miller: Okay. I think that's good. Thanks.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller.

Mr. Bisson?

Mr. Mike Colle: Just a point of order. Sorry to interrupt. If we can get that from research—how much of Ontario's aggregate goes out of the province and how much stays in?

The Chair (Mr. Shafiq Qaadri): That's fine, Mr. Colle. You're welcome to pose those questions. As you very well know, that's not really a point of order.

Mr. Gilles Bisson: Mr. Colle, I'll save you the trouble. That's where I'm going.

The Chair (Mr. Shafiq Qaadri): Mr. Bisson, go ahead.

Mr. Gilles Bisson: I listened to your comment in regard to having to sell into the American market. I think that's a good argument. I think that's something we should look at as an amendment: that if there is a fee-structure change, we do not apply it to exports. I think that's a wise suggestion.

Other than that, you can live with it, right? You're fine.

Mr. Craig Bellinger: I think so, yes.

Mr. Gilles Bisson: Sorry?

Mr. Craig Bellinger: Yes, I would say so.

Mr. Gilles Bisson: Yes, okay. Good, good.

Most of what you've asked was pretty straightforward. I thank you for your presentation.

The Chair (Mr. Shafiq Qaadri): Your time is concluded, Mr. Bisson?

Mr. Gilles Bisson: Yes, I'm done.

The Chair (Mr. Shafiq Qaadri): Thanks to Mr. Bellinger and Mr. Parkin.

Mr. Colle, would you like to ask your research question?

Mr. Mike Colle: Yes, just a point: if we could get that breakdown of what percentage of aggregates are shipped out. On the Manitoulin, they're shipping it on the Great Lakes. We don't want to penalize that.

The Chair (Mr. Shafiq Qaadri): Is it the will of the committee to authorize this research question? I take that as a yes.

Mr. Michael Vidoni: May I have the question re-phrased?

The Chair (Mr. Shafiq Qaadri): Mr. Colle, do you mind rephrasing this after we finish our presentations?

Mr. Mike Colle: Yes, certainly.

The Chair (Mr. Shafiq Qaadri): All right. Thank you, gentlemen, for your presentation.

MS. TANIA POEHLMAN

The Chair (Mr. Shafiq Qaadri): I would now invite our next presenter to please come forward: Ms. Poehlman. Welcome. You've seen the drill. You have 10 minutes of introductory remarks. Please be seated, and please begin now.

Ms. Tania Poehlman: Thank you. I'm going to change things up a little bit this afternoon and speak to the amendments to the Mining Act.

My name is Tania Poehlman, founder of In Good Standing. We provide efficient and strategic lands management services to the exploration and mining sector. We actually support thousands of mining lands in Ontario. I also sit on the Ministry of Northern Development and Mines' land management advisory committee, as well as on the Ontario Prospectors Association's regulations and policy subcommittee.

Thank you, Mr. Chair, for taking the time to listen to my suggestions and comments about the proposed amendments.

The vision behind Ontario's Mineral Development Strategy is to become the global leader in the mineral sector. The extensive work invested into the modernization of the Mining Act, supported by years of industry consultation and careful industry-wide consideration of cause and effect, is positioning the province to bring that vision to reality.

The main focus of change as it relates to exploration and the regulatory framework as proposed in Bill 39 is in the acquisition and management of mining lands in Ontario. The manual system of ground and paper staking and maintaining unpatented mining claims will be replaced with an innovative online mining lands administration system. These changes will undoubtedly bring greater accuracy and certainty of the location of claim holders' mining claims, rights and interests, and offer flexible management of land assets. They will also make Ontario more competitive on the world stage.

However, there still remain points of caution as we move forward with the legal framework required to support the new model being proposed.

At conversion, all active unpatented claims will be converted from their place on the land being legally defined by claim posts on the ground or by township survey to being legally defined by their cell and coordinate location in CLAIMaps. From there, the converted claims will translate into the new cell-based grid system and be defined as cell claims and boundary claims within a cell. This is a loaded proposition that will affect all aspects of the exploration sector in this province.

To start off, the transition to online staking will have a profound impact on the livelihood of prospectors and, with that, valued expertise on the ground. One of the strategic priorities for Ontario's Mineral Development Strategy is growth and prosperity. Therefore, consideration should be given to help adjust to this potential loss of

income, expertise and method of grassroots exploration. There is opportunity to nurture this valuable profession through proposed incentives for prospectors, such as training, free assays and analyses, and doubling of assessment credits when work submitted has been performed by a licensed prospector. Many ideas such as these have been proposed and should be further considered as we transition to the new system in order to foster growth and prosperity for this irreplaceable role.

Through conversion, the fabric and position of most existing boundaries will change. This can have significant impacts on claim and stakeholders' obligations through their subjected agreements. However, agreements made among claim holders and stakeholders were never written to consider conversion. Their schedules reference a legacy claim fabric and IDs that are about to change. If the agreements are not amended, there is a potential for overlapping obligations which can extend financial demands. Section 38.2(3) provides claim holders with a tool to protect the spatial extent of subjected agreements as they were originally intended through the designation of client-elected boundary claims. This will help manage the potential expansion of financial obligations and overlapping royalties. It is a critical piece that is vital to the success of conversion on a business level.

Agreements made between claim holders and the government in the form of early exploration plans and permits have been partially addressed in Bill 39, section 38.2(11) and (12), in that, "Where an exploration plan or exploration permit is in effect with respect to a legacy claim before the conversion date, the exploration plan or exploration permit continues in effect after the conversion date with respect to any cell claim or boundary claim that results from the conversion of the legacy claim but only with respect to the land in the cell claim or boundary claim that was part of the legacy claim...."

In other words, existing plans and permits will be honoured, but only to the extent of their pre-conversion or legacy boundaries as per the circulated and approved applications. In practice, this will be very difficult to adhere to and sets up proponents to inadvertently perform work on portions of their claims where they are not authorized to do so. Proponents should consider amending their plans and permits to reflect the new claim fabric and IDs. Also, the bill does not make mention of other types of government and claim holder agreements, such as closure plans. Consideration should be given to include these.

As the boundaries of legacy claims expand outwards to meet the provincial grid, there is potential to inadvertently acquire what I call "undesirables." Section 69(1) touches on the acquisition of hazards through conversion. However, it does not protect the claim holder from inheriting the remediation obligations that come with a hazard should the claim be taken to lease. It would be helpful to add this layer to CLAIMaps so claim holders can make an educated decision on the management of their claims leading up to conversion.

With the change in boundaries, IDs and claim fabric, access to root of title will be critical to proper manage-

ment of claims and adherence to pre-existing agreement obligations. Section 4(4) speaks to maintaining root of title, but does not clearly commit to any connection with the converted spatial data or claim abstracts. It will be critical for claim holders and stakeholders to be able to readily and confidently reference the root of title through the converted fabric and cell abstracts.

We are positioned to become a global leader in mineral development. We have had the opportunity to leverage best practices and lessons learned from provinces that have gone before. Although mandatory one-time conversion sounds threatening to many, the alternatives have proven costly to both government and claim holders in all jurisdictions that have implemented voluntary conversion.

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This industry is uniquely diverse, with a broad spectrum of interests from prospectors to miners, First Nations to investors, geologists to accountants and lawyers to government. Many of those interests compete with one another, few of their objectives align and not any one is part of the process from beginning to end, yet we all interact together within this complex system to make it work. Despite years of careful consideration and planning to modernize the Mining Act, there will undoubtedly be unforeseen impacts throughout this sector as a result of the changes being proposed. To attempt to translate that into one that is built on a rigid, logical IT framework without human flexibility and understanding can be a recipe for disaster. It will be of great value to let many of the rules currently sitting in legislation be repositioned down to the policy level as it will allow the province more freedom to adjust to the changes and to respond quickly and efficiently to the impacts as they are fully realized post conversion. This also falls in line with the MDS's priority to proudly offer an efficiently and effectively regulated mining industry on the world stage.

Notwithstanding the aforementioned concerns, it is time to move forward. Despite extensive outreach efforts made on behalf of the MNDM, the claim holders' level of understanding of the proposed changes and the ability of the claim holders to prepare is alarmingly poor. The changes to the regulatory framework as presented under Bill 39 need to be implemented as soon as possible—

The Chair (Mr. Shafiq Qaadri): One minute.

Ms. Tania Poehlman: —in order to move forward and communicate more effectively with the claim holders and stakeholders so they can properly prepare and manage their land assets under the new system.

All of these issues and concerns presented here are manageable with knowledge and time.

The Chair (Mr. Shafiq Qaadri): Thank you, Ms. Poehlman. To the PC side: Mr. Miller.

Mr. Norm Miller: Thank you very much. You started out your presentation saying that it would negatively affect traditional prospectors, but it sounds like you're in favour of staking. Also, I think the rest of the world is kind of moving to this online type of staking.

Ms. Tania Poehlman: Yes.

Mr. Norm Miller: We have heard from other presenters who thought it would be a relatively minor change to traditional stakers because so much more work is done after the claim is staked that is required. Do you agree with that?

Ms. Tania Poehlman: Everything is relative. For the prospectors, the stakers, that role is really the first boots on the ground, and there have been countless discoveries made by those efforts. So in that, I don't want to diminish the value of their role, but it is very grassroots. It is entry level into the ground, and from there, everything builds on that. So relatively speaking, from beginning to end, you could consider it a small piece, but it is a vital piece. Their expertise and that action of being on the ground and walking through just that first visual interpretation of what is there can have a profound impact on the development of that ground going forward.

Mr. Norm Miller: In your point about if you have a traditional—I might get the terminology wrong—an existing claim done by traditional, on-the-ground staking and you have the plan to be able to do work on it on the property, the new boundaries that you would acquire with that claim, you could inadvertently end up doing work outside of the boundaries of the old claim?

Ms. Tania Poehlman: Oh, so you're speaking to the question about—

Mr. Norm Miller: The plans and the permits.

Ms. Tania Poehlman: —the plans and the permits. The confusion for claim holders lies in the fact that through conversion most people's boundaries will change. They're going to expand to the grid, and yet the plans and the permits will remain active but only to the extent of their originally defined boundaries. I think that's a potential issue for some confusion because people are going to be referencing the new cell fabric. All their maps are going to reference the cell fabric and yet where they have to work on the ground where they're authorized to perform this type of work is the old—

Mr. Norm Miller: Is the old way. So what would you recommend to fix that?

Ms. Tania Poehlman: From my professional opinion, I would recommend—this all comes down to educating the stakeholders and the claim holders. They either have to be acutely aware—

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller.

Monsieur Bisson.

Mr. Gilles Bisson: Can you carry that thought forward, please?

Ms. Tania Poehlman: They either have to be acutely aware, or they should apply for an amendment to the plan or permit to reflect the new claim IDs, which I believe is already covered under the proposed legislation, but to reflect the new boundaries, more importantly.

Mr. Gilles Bisson: One of the comments you made in here—and I thought it would have maybe been the way to do it, but I'm not so sure now—is that you're saying the voluntary conversion has led to problems. Can you give an example?

Ms. Tania Poehlman: Absolutely. In places like Saskatchewan, so much effort has been put forward to encourage people to convert, and yet very few have actually done that. It has resulted in loss of title.

Mr. Gilles Bisson: How? You lose title if you don't do the work.

Ms. Tania Poehlman: Pardon me?

Mr. Gilles Bisson: You lose title if you don't do the work.

Ms. Tania Poehlman: No, the system became so complicated that people couldn't account for all of the changing rules that had to be built into it, because there were so many different scenarios that were trying to work parallel to each other through a voluntary system. In doing that, the system actually started to recalculate due dates—

Mr. Gilles Bisson: Oh, gotcha. Okay.

Ms. Tania Poehlman: Right, and that's just one example.

Mr. Gilles Bisson: The other thing is, you might have heard earlier in regard to the issue of levies for municipalities for aggregate. I made the comments in regard to mining. Your thoughts? Is that something you would support? You know the condition of our roads in communities like Kirkland Lake and Timmins?

Ms. Tania Poehlman: Sudbury is pretty bad, actually.

Mr. Gilles Bisson: And Sudbury—all of those with mines. Their big quarries are pretty deep, though.

Ms. Tania Poehlman: Yes.

Mr. Gilles Bisson: Would you support some sort of levy to assist municipalities to better maintain their roads?

Ms. Tania Poehlman: From what I've heard today, yes.

Mr. Gilles Bisson: Okay. Last question, and more of a comment: John Larch, Don MacKinnon, all of those people—that's how they found the mine. They found it by scraping the ground. One of the things that I'm a bit of a holdover on is that having people on the ground do that—there's a benefit to it.

The other part is, there are a lot of people that used to make their living staking claims. Unfortunately, those people now are without employment.

I was just dealing with a guy about two months ago who ended up losing—he went through a bad marriage breakup, but the point is, he lost his business because that's what he used to do: He used to go out and do some staking. Essentially, it's gone, and it's unfortunate.

Ms. Tania Poehlman: It will be gone. It will be gone in the traditional way we think of it, and so it does impact people. There is definitely skill there that it's valuable to hang onto.

Everything evolves, and we should embrace that but still be sensitive to—

Mr. Gilles Bisson: Last part—

The Chair (Mr. Shafiq Qaadri): Thank you, Monsieur Bisson.

To the government side: Madame Des Rosiers.

M^{me} Nathalie Des Rosiers: Thank you very much for your presentation. I want to follow up a little bit on what

you're suggesting. I think you were trying to explain why it's an important advancement to the system, and that there are going to be real transition costs for some people. I heard you having some suggestions as to how to not lose the expertise that's there, so I'd like you to comment a little bit on that.

I know that you also mentioned really strongly the importance of people knowing what's going on.

Ms. Tania Poehlman: Yes.

M^{me} Nathalie Des Rosiers: I was wondering whether you had any suggestions as to how the government could go about doing good training, or capture the traditional knowledge but also ensure that people are not left behind.

Ms. Tania Poehlman: Right, a loaded question. I'll do my best to answer as quickly as possible.

First and foremost, the MNDM is actually doing a remarkable job at trying to communicate what they can about what the proposed changes are. The sense of urgency to move forward, that I was trying to relate today, is vital because right now, the government is very limited in what they can openly communicate with the public, because everything is still under a "proposed" umbrella and things could admittedly change.

But they have a planned implementation date, and that is quickly approaching. We're already within windows where people need to be preparing now—actually, already months ago—and they're not. They're not engaging. They don't know. They're not of the mindset to get on board.

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Our industry has had a great deal of struggles in the last few years. One minute, a property exists; the next day, it doesn't, and there's a big shuffle in people, and mergers and acquisitions. You speak to one person one day and they're in a different position the next. So that is definitely a challenge.

But I think one key thing we can do is to move forward, get everything passed, get things in place, and start to get people on board and educated with what they should be aware of. All of this is manageable, but they need to know, and they need to know what their options are moving forward.

Regarding your first question about the loss of and the value in the stakers: We've been through all these advisory committees. We've been making a number of suggestions to help encourage the use of their skills in grassroots exploration, not necessarily to go and put a post in the ground, but to provide some incentive to the early exploration companies—

The Chair (Mr. Shafiq Qaadri): Thanks to you, Ms. Poehlman, for your deputation and submission to us.

DOUGHTY AGGREGATES
(PETERBOROUGH) LTD.

The Chair (Mr. Shafiq Qaadri): I now invite our next presenters to please come forward: Kerry Doughty of Doughty Aggregates (Peterborough) Ltd. You have

seen the drill, and you are our last presenter of the day and of these hearings. Please be seated, and please begin.

Mr. Kerry Doughty: I'm Kerry Doughty from Doughty Aggregates. I'm the owner-manager of our operation in Peterborough. Thanks for the opportunity for coming today and providing comments on Bill 39 from a smaller aggregate producer's perspective. Our firm is a supplier of aggregates based in the Peterborough area. We also undertake custom production for other small producers throughout central Ontario.

We've been involved with the licensing process from before there was a licensing process, right through the Pits and Quarries Control Act, up to the Aggregate Resources Act. I'm providing these comments today based on my experience.

We feel that although the pressure for change is largely driven by the impacts generated by the larger operations, it's very important to maintain a regulatory framework that will still work for the smaller producers providing aggregate material in lower-volume markets.

Many of our concerns have been identified by the Ontario Stone, Sand and Gravel Association and Aggregate Recycling Ontario in their submissions previously, and also the producers that attended today. We support their positions and we encourage you to consider them in going forward.

As a smaller, privately owned operation, we would also like to emphasize our concerns and fears about the changes the new legislation proposes in the sections dealing with the following matters.

The first one is new provisions allowing the minister to require additional studies, information and updated site plans for existing aggregate sites. As you can imagine, in a smaller operation, there's not a property department and a legal department to handle these constant requests for information. So we do not support the change to the legislation that would enable the minister or staff, through regulations, to add conditions or require studies without any appeal mechanism. We would like to see this aspect actually deleted, or used in a very defined and limited manner.

If this change is incorporated into the act or regulations, we're afraid that it will be used to cause regulatory sterilization of existing reserves. I've seen it myself on the ground where this has been attempted. It will expose the minister and staff to constant lobbying and requests for more information at the expense of the aggregate operation owner or operator.

Specifically, our concern is that new neighbours would move into an area near an existing aggregate operation and then begin making demands of elected officials, the minister, other ministers, and the ministerial staff to make changes on the approved site plan in an attempt to change the already approved activity.

This concern is based upon our long experience at our gravel operation in the city of Kawartha Lakes. New neighbours had moved into the area near our gravel pit without any investigation of the existing activities or the planned uses that were clearly identified in the official

plan. The official plan of the day actually did not require an official plan amendment. They were as-of-right activities that were permitted.

It has been both time-consuming and expensive. The only security that we've had over the more than 20 years of dealing with these individuals who had pursued this type of strategy was the fact that we had an approved site plan and zoning that permitted our activities. So we were comfortable that we were operating well within the rules, and we were able to maintain our investment in the operation.

It's interesting to note in that particular situation that we weren't actually operating the pit when these demands began. It was a reserve property that was actually not operating, but I believe the citizens believed that a good offence was the best defence in the long run. So that 20-year history precluded an actual operation being undertaken on a day-to-day basis.

The second point that we have a concern with is the standardizing of the legislation and regulations to allow for the tonnage limit increases, if the total tonnage limit is defined in the legislation, including both blended and recycled materials.

I think one element that hasn't come out and that our concern stems from is the lack of understanding—it's not widely understood that for older existing class A aggregate sites, the licensed tonnage limit was arbitrarily set. In most cases, the tonnage limit was not put in place to control the volume of the materials sold or the effects of the operation. The tonnage limit was a guess based upon past tonnes sold or the number of tonnes an operator might hope to sell in the future, like an aspirational guess. The existing operating sites, prior to the Pits and Quarries Control Act, were automatically granted a licence. There was a period of time grandfathered in as a licensed operation, but the licence itself took a period of time to get the site plans on and the paperwork filled out.

Often, the MNR inspector may have suggested a tonnage limit because there were boxes to fill out. You had to fill out the box, so you just filled it in with something. Anyway, sometimes the MNR inspector may have suggested something.

Many going through this process at the time would not have foreseen the time when concrete aggregate, for instance, needed in downtown Toronto would be coming from Mosport, Barrie or Guelph. Most of these operations that were being licensed were really just dealing with the local market.

Consequently, in order to encourage recycling, adequate provisions would be needed to allow for the increase in tonnage limits based upon any historical recycling activities, but more importantly, the increasing need to recycle aggregates in the future. Even in our small market, we're starting to see an increasing demand. If you don't make it affordable, the virgin material will out-compete the costs of the recycled material. In the long run, that's not a good solution.

Also, in order to encourage the full utilization of all material in an existing aggregate site, it may be necessary to blend in imported materials to meet the more exacting

specifications the materials must meet when used in modern engineered construction projects. Again, adequate provisions would be needed to allow for the tonnage limits that are necessary to accommodate this need.

Our third point is that the legislation and regulations must incorporate a stronger MNRF position in planning matters. Because the modernization of the act has been driven through a constant struggle between municipalities, concerned citizens and producers who are trying to meet the demand, we believe the requirement for the modernization is coming from past failures in planning. These failures happened even though the provincial policy statements and the municipal official plans had clearly stated that, due to the strategic importance of aggregates, aggregate resources were to be protected from conflicting development. In many areas, this didn't happen.

In our area, many residential severances have been granted in areas that were clearly identified for use as aggregate resources. This has led to conflicts with the existing operations and the sterilization of resources that were clearly earmarked for the future.

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Greater MNRF staff participation directly in planning matters would be more effective than the current approach as a commenting agency to municipal affairs and housing. They can bring an understanding to the table during the planning discussions that gets watered down going through another ministry. That's a critical piece that's not being dealt with in Bill 39, but it would certainly be a modernization of the act by bringing MNRF staff back into the planning regime.

As Bill 39 moves forward, we believe it's important to ensure that the regulatory process will still work for smaller aggregate producers and will also allow for the provision of aggregates that are affordable to society. Keep in mind that for most of the—

The Chair (Mr. Shafiq Qaadri): One minute.

Mr. Kerry Doughty: I believe there's approximately 2,600 individual licence holders of the excess of 6,000 licences. More than half of those producers are in small areas serving local markets, selling directly to their neighbours.

Thank you for your time taken to consider these thoughts.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Doughty. To the NDP: Mr. Bisson.

Mr. Gilles Bisson: Well, it's actually pretty straightforward. That was a good presentation. On the point that you made, point number 2: I wonder if you can expand on that a little bit, because as I understand it, what you're arguing is that for somebody who currently has a pit, the amount of material that can come out of the pit is limited by whatever was put in the permit application, the original application. So explain it to me a little bit more clearly. Is the new legislation then going to re-impose a new limit? Is that what you're fearing?

Mr. Kerry Doughty: Well, there are two parts to that. The first is that I don't believe it would; we're going to stay with the existing tonnage limit. But what I'm advocating is the ability to increase the tonnage limit based on the need to blend in the recycling requirements and a relook at whether the tonnage limit was even relative to any scientific evidence that they would normally put forward in a new application. The modification of the licence tonnage should be a much clearer—

Mr. Gilles Bisson: So what's currently in the legislation? How would you want it changed?

Mr. Kerry Doughty: In the new legislation or the existing?

Mr. Gilles Bisson: No, the new.

Mr. Kerry Doughty: Well, I'd like it to clearly allow for the subjectivity that would come from both, and I—actually, I don't even know how to modify that in law.

Mr. Gilles Bisson: That was my problem. I'm sitting here and I'm having the same problem as you, so I thought you had the answer.

Mr. Kerry Doughty: No, I don't have the answer. The answer, really, is an act of faith. When you have concerned citizens, there hasn't been much support for an act of faith on what the market conditions are going to do in the future.

Mr. Gilles Bisson: The other question I have: Somebody moves into the neighbourhood and all of a sudden says, "I don't like having this pit or quarry next to me." Under this legislation, do you see that more as a threat?

Mr. Kerry Doughty: Yes, I do. Actually, it's happening now, but to give regulatory credence and authority to the minister and ministerial staff to request more detailed reports and changes, all at the expense of the operator, and maybe at the expense of the availability of the aggregate, is a great step backwards.

Mr. Gilles Bisson: Okay. Thanks.

The Chair (Mr. Shafiq Qaadri): Thank you, Monsieur Bisson. To the government side: Madam Des Rosiers.

M^{me} Nathalie Des Rosiers: I hear you on the importance of including MNR on the planning side. It's not in here, but I think the people from the ministry are here and I think it's a really good suggestion. Thank you for a good presentation.

There are two issues that are left. The first one is your discomfort with the fact that there would be the possibility of the ministry asking for more studies. And yet, in your presentation you said that without appeal, or at large, as opposed to having a specific circumstance—could you help me, if there were some more specific circumstances where you thought that additional studies or additional requests would be appropriate? Had you thought a little bit about that? If we could circumscribe a little bit what could—

Mr. Kerry Doughty: Well, I'm not really comfortable with the whole idea of—

M^{me} Nathalie Des Rosiers: At all?

Mr. Kerry Doughty: We went through a licensing process that took 13 years and seven weeks of OMB hearings, with a lot of expert testimony. The plan was

well thought out. At a cost of almost a million dollars for a small operation like ours, to think somebody could move into an area and then go, “Oh, by the way, did you consider the wetland?” Well, yes we did, actually. Just go to the file and look at it.

But no, what we’ve experienced is that the concerned citizens who advance these types of arguments are not concerned about expanding their knowledge base. They want to stop the operation. I’m afraid that this will be just another technique.

M^{me} Nathalie Des Rosiers: Okay. So if there were new circumstances, if we had language to limit this open field, would that be reassuring?

Mr. Kerry Doughty: Well, if in fact it goes forward, I think there has to be an appeal rather than an automatic compliance issue with the operator. That’s my greatest fear, where automatically, if you’re asked for a report or an expanded report or a change and you don’t immediately do it, you’re in contravention of your licence. I’ve sooner have an appeal process where it was heard before the cost was—

M^{me} Nathalie Des Rosiers: It would be helpful. Okay.

The Chair (Mr. Shafiq Qaadri): Thank you, Madame Des Rosiers. If there are no further questions, we’ll move to the PC side: Mr. Miller.

Mr. Norm Miller: Thank you for your presentation. You’re talking about fully utilizing all material in existing aggregate recycling. Any further thoughts on that, on how to encourage recycling?

Mr. Kerry Doughty: Well, when you’re talking about blending in recycling, these sites are actually set up with processing plants already in their—if it’s a logical use, as the people prior to me had identified, the logistics are better.

But one of the things I’ve run into is that everyone thinks a gravel pit is a gravel pit is a gravel pit. Well, that’s not the case. In the Oak Ridges moraine, there is a high percentage of sand. In our area, we’re mining eskers. There’s an even distribution of stone and sand. Some of these engineered products require specific components of each, and in some of the areas now that are getting depleted, there may only be sand left, and the importation of rock to augment what’s on there to make a higher specification product to supply the municipality, for instance, with—

Mr. Norm Miller: So you’re saying out of necessity, to make these materials, you have to move things around?

Mr. Kerry Doughty: Yes, out of necessity. And it’s a wise use of the property and a well-thought-out conservation technique, actually.

Mr. Norm Miller: So is the concern, then, that the changes right now actually discourage recycling the way—

Mr. Kerry Doughty: That’s what I’m afraid might wind up in the regulations.

Mr. Norm Miller: And the fact that if you recycle material, it comes off of your licensed tonnage limit?

Mr. Kerry Doughty: That’s right. I think there should be nothing legislated that would discourage recycling in any way, shape or form, and this definitely will.

Mr. Norm Miller: On your third point, protecting small operations: Is it mainly planning that is the way that you protect the small operations?

Mr. Kerry Doughty: I think primarily not just small producers, but in all cases society as a whole, would be better served by more accurate information earlier in the process. It would make it more cost effective for the smaller producer, and ultimately for society, the cost of the material would be less. In a competitive market, the consumer is best served when there are multiple suppliers to the marketplace and they’re competing for someone’s business. I think that having the security of reserves available to license would give people the confidence to stay in the business.

We’re seeing a great deal of consolidation in our industry, larger producers buying smaller producers. For somebody like me, it’s great financially, but not if you want to stay in the business.

Mr. Norm Miller: Thank you.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Miller, and thanks, Mr. Doughty, for your deputation on behalf of Doughty Aggregates (Peterborough) Ltd.

Mr. Colle, the floor is yours to communicate your research request.

Mr. Mike Colle: Yes. I would like for the committee to be able to get the data on what percentage of aggregate extracted in Ontario is exported compared to what is used domestically.

Mr. Michael Vidoni: Okay, so a ratio between what’s used domestically and what’s exported?

Mr. Mike Colle: Yes. And you might not be able to get it for this year or last year, but as close to this year as possible that’s viable, where the data is available.

Mr. Michael Vidoni: Okay. I’ll have to take a look at what data is available.

Mr. Mike Colle: Yes, because if there’s nothing about 2015, I don’t mind 2014—whatever you can get.

One other small point that comes up—I’ve been trying to get this clarified: What percentage of recycled aggregates is used by the Ministry of Transportation of Ontario? What percentage of their aggregate is recycled aggregate? Then, I’m still searching of the Holy Grail here: What percentage of aggregates do municipalities use that is recycled in their road building, etc.?

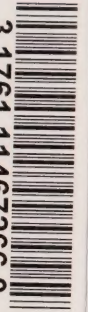
The Chair (Mr. Shafiq Qaadri): Mr. Colle, I would also welcome you, as the cascade of questions come forward, to submit them in writing.

Mr. Mike Colle: It’s not a cascade; it’s just a trickle.

The Chair (Mr. Shafiq Qaadri): It’s a cascade.

The deadline for filing amendments is Monday, March 6. The committee is adjourned until Thursday, March 9 at 9 a.m. Thank you.

The committee adjourned at 1600.



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